



FOURTH SESSION OF THE ELEVENTH PARLIAMENT (2018/2019)

TENTH REPORT OF THE

JOINT SELECT COMMITTEE ON

HUMAN RIGHTS, EQUALITY AND DIVERSITY

on the

Treatment of Detainees at the Immigration Detention Centre



Committee Mandate

The Joint Select Committee on Human Rights, Equality and Diversity was established under House of Representatives Standing Order 106 and Senate Standing Order 96 and shall have the duty of considering, from time to time, and reporting whenever necessary, on all matters related to:

- (a) compatibility of Acts of Parliament with human rights, and any matters relating to human rights in Trinidad and Tobago (but excluding consideration of individual cases);
- (b) Government compliance with national and international human rights instruments to which Trinidad and Tobago is a party;
- (c) the promotion of measures designed to enhance the equalization of opportunities and improvement in the quality of life and status of all peoples including marginalized groups on the basis of gender, age (elderly, youth, children) disability and the creation of an inclusive and more equitable society through greater social justice and sustainable human development within Trinidad and Tobago.”

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Table of Contents

1. EXECUTIVE SUMMARY	9
2. INTRODUCTION.....	16
Human Rights and Treatment of Immigration Detainees	16
Immigration Detention Legislation in Trinidad and Tobago	18
Inquiry Stakeholders	21
Immigration Division, Ministry of National Security	21
United Nations High Commissioner for Refugees (UNHCR)	22
Living Waters Community (LWC)	22
Emancipation Support Committee of Trinidad and Tobago (ESCTT).....	23
Immigration Detention Centre (IDC), Aripo	23
<i>Refurbishments to the Immigration Detention Centre (IDC).....</i>	<i>24</i>
Conduct of the Inquiry	24
3. EVIDENCE	27
Statistical Evidence	27
Objective 1: To Determine the Treatment of Detainees at the Immigration Detention Centre.....	33
<i>Legislation / Regulations for Treatment of Detainees</i>	<i>33</i>
<i>Legal Representation.....</i>	<i>33</i>
<i>Procedure for Detention of a Foreign National</i>	<i>33</i>
<i>Order of Supervision.....</i>	<i>35</i>
<i>Excessive Force</i>	<i>36</i>
<i>Medical Treatment of Detainees</i>	<i>37</i>
<i>Suicide.....</i>	<i>38</i>
<i>Length of Time in Detention at the IDC</i>	<i>38</i>
<i>Visits</i>	<i>40</i>
<i>Meals and Drinking Water for Detainees</i>	<i>41</i>
<i>Complaints.....</i>	<i>41</i>
<i>Complaints submitted in a Foreign Language</i>	<i>43</i>

<i>Training of Special Reserve Police (SRP) Officers</i>	<i>44</i>
<i>Language Barrier</i>	<i>45</i>
<i>Asylum Seekers</i>	<i>45</i>
Objective 2: To Examine the Physical Conditions at the Immigration Detention Centre.....	47
<i>Accommodation</i>	<i>47</i>
<i>Health and Safety.....</i>	<i>48</i>
<i>Laundry and Hygiene</i>	<i>50</i>
4. FINDINGS AND RECOMMENDATIONS.....	53
Objective 1: To Determine the Treatment of Detainees at the Immigration Detention Centre.....	53
<i>Regulation / Legislation for Treatment of Detainees</i>	<i>53</i>
<i>Medical Treatment of Detainees</i>	<i>54</i>
<i>Use of Force.....</i>	<i>56</i>
<i>Length of Time in Detention.....</i>	<i>56</i>
<i>Staffing.....</i>	<i>57</i>
<i>Meals and Drinking Water for detainees.....</i>	<i>58</i>
<i>Complaints.....</i>	<i>59</i>
<i>Language Barriers.....</i>	<i>60</i>
<i>Asylum Seekers and Refugees.....</i>	<i>60</i>
Recommendations.....	62
Objective 2: To Examine the Physical Conditions at the Immigration Detention Centre.....	63
<i>Accommodation</i>	<i>63</i>
<i>Sanitation.....</i>	<i>64</i>
<i>Health and Safety.....</i>	<i>65</i>
Recommendations.....	66
APPENDIX I MINUTES	68
APPENDIX II VERBATIM NOTES	76
APPENDIX III SITE VISIT REPORT	124

APPENDIX IV IMMIGRATION DETENTION CENTRE OPERATIONAL ORDERS	137
APPENDIX V COMPLIANCE TO OSHA SECTIONS 31 TO 45B.....	144
APPENDIX VI IDC DAILY MEAL PLANS.....	152
APPENDIX VII USE OF FORCE POLICY	155
APPENDIX VIII NUMBER OF IMMIGRATION DETAINEES FROM 2015 TO 2017	167
APPENDIX IX RECOMMENDATIONS FROM LIVING WATER COMMUNITY .	175
APPENDIX X IDC SPECIAL INQUIRY PROCESS	179
APPENDIX XI INTERIM STANDARD OPERATING PROCEDURES FOR THE PROTECTION OF ASYLUM-SEEKERS AND REFUGEES IN TRINIDAD AND TOBAGO	181

LIST OF ABBREVIATIONS

CARICOM	Caribbean Community
CSME	Caribbean Single Market Economy
ECRC	Eastern Correctional Rehabilitation Centre
EMT	Emergency Medical Technician
EU	European Union
ESCTT	Emancipation Support Committee of Trinidad and Tobago
IDC	Immigration Detention Centre
IOM	International Organization for Migration
IVCD	Insect Vector Control Division
LWC	Living Water Community
MNS	Ministry of National Security
OOTT	Office of the Ombudsman of Trinidad and Tobago
OLEP	Office of Law Enforcement Policy
OSHA	Occupation Safety and Health Act
NGO	Non- Governmental Organizations
POC	Persons of Concern
SOP	Standard Operating Procedure
SRP	Special Reserve Police
TTPS	Trinidad and Tobago Police Service
TTPrS	Trinidad and Tobago Prison Service
UNHCR	United Nations High Commissioner for Refugees

LIST OF TABLES

Table 1 Legislation in T&T related to Immigration Detainees	18
Table 2 Budgetary Allocation, Immigration Detention Centre	24
Table 3 Officials Attendance List	25
Table 4 Number of Immigrants Deported in 2016	27
Table 5 Repatriation Cost 2012 to 2016	28
Table 6 Costs incurred per country for the repatriation of detainees	28
Table 7 Complement and Category of IDC Staff as at January 31, 2018	29
Table 8 Number of Venezuelan Immigrants who arrived for the period 2015 to 2017	30
Table 9 Cost of Meals for Detainees at IDC from 2012 to 2018	30
Table 10 Number of Staff Speaking a Foreign Language	31
Table 11 Longest Time period in Detention at IDC as at January 31, 2018	39
Table 12 IDC Visits	40
Table 13 Number of Ombudsman Complaints against the IDC from 2013 to 2017	42
Table 14 Detainee Complaints related to IDC Treatment	42
Table 15 Capacity of Housing Units	48
Table 16 Detainee Complaints related to Physical Conditions	49
Table 17 Number of Operational Showers and Toilets at the IDC	50
Table 18 Compliance to Immigration Detention Centre Operational Orders as Observed in Site Visit and ESCTT Submission	54
Appendix VIII Table 1 The Current Number of Detainees as At March 19, 2018 at the Immigration Detention Centre	168
Appendix VIII Table 2 The Monthly Intake Of Male Detainees For The Year 2015 At The IDC	168
Appendix VIII Table 3 The Monthly Intake Of Female Detainees For The Year 2015 At The IDC	170
Appendix VIII Table 4 The Monthly Intake Of Male Detainees For The Year 2016 At The IDC	170
Appendix VIII Table 5 The Monthly Intake Of Female Detainees For The Year 2016 At The IDC	172
Appendix VIII Table 6 The Monthly Intake Of Male Detainees For The Year 2017 At The IDC	172
Appendix VIII Table 7 The Monthly Intake Of Female Detainees For The Year 2017 At The IDC	174

LIST OF FIGURES

Figure 1 Status of Persons of Concern registered at the UNHCR from 2012 to October 31, 2018.....	31
Figure 2 Number of Persons Registered with UNCHR from 2012 to October 31, 2018.....	32
Figure 3 Persons of concern by Country of Origin from 2012 to October 31, 2018	32
Figure 4 Detainee Procedures for Detention, Deportation or Voluntary Departure	34
Figure 5 Procedure for the Detention of a Foreign National.....	35
Figure 6 Procedure for a Detainee Complaint in a Foreign Language	44
Figure 7: Female Dormitory at IDC	47
Figure 8: Shower in the female dormitory at the IDC	51
Figure 9: Toilet in the female dormitory at the IDC.....	51
Figure 10: Washer and dryer in the female dormitory at IDC	52
Figure 11: Member of Committee interacting with female detainees at IDC	55
Figure 12: Members of the Committee in the male recreation area interacting with male detainees at the IDC.....	64
Figure 13: Male detainee in recreation area protesting at the IDC.....	65
Figure 14: Members of the Committee at the briefing session	127
Figure 18: Ventilations system in the female dormitory	128
Figure 17: ventilation system in the female dormitory	128

Figure 15: Female Dormitory at the IDC	128
Figure 16: Female Dormitory at the IDC	128
Figure 19: Laundry baskets provided to female detainees in the IDC	129
Figure 20: Toilet in the female dormitory	129
Figure 21: Washer and Dryer provided to female detainees at the IDC	129
Figure 22: Showers for female detainees at the IDC	129
Figure 23: Recreation Area for female detainees	130
Figure 24: Members of the Committee interacting female detainees	130
Figure 25: Member of Committee speaking with officials from IDC	132
Figure 26: Mattresses on the Floor of the Recreation Area for the male detainees at IDC	133
Figure 27: Mattresses on the floor of the Recreation Area for the Male Detainees at IDC	133
Figure 28: Members of the Committee interacting with male detainees	133
Figure 29: Members of the Committee interacting with male detainees	133
Figure 30: Members of the Committee interacting with male detainees	134
Figure 31: Members of the Committee interacting with male detainees	134
Figure 32: Cubicles for the use of visitors and detainees	135
Figure 33: Members viewing the Visitors Area at the IDC	135
Figure 34: Cubicles with broken speaking areas at the Visitors Area	135
Figure 35: Inside of the Visitors Area	135
Figure 36: Private meeting area for lawyers and other officials when visiting the IDC	136
Figure 37 Special Inquiry Process	180

1. EXECUTIVE SUMMARY

1.1. The Committee resolved at its Nineteenth Meeting held on March 02, 2018, to inquire into the treatment of detainees at the Immigration Detention Centre (IDC) and agreed that the following two (2) objectives would guide the inquiry:

- i. To determine the treatment of detainees at the Immigration Detention Centre; and**
- ii. To examine the physical conditions at the Immigration Detention Centre.**

1.2. The Committee agreed that the Ministry of National Security would to be invited to a public hearing on April 06, 2018. Based on the objectives listed above, both oral and written evidence were received.

1.3. Some significant issues raised during the public hearing on April 06, 2018 included:

- The IDC as at April 06, 2018 housed 120 detainees (85 males and 35 females);
- The most common breaches of the Immigration Act, Chap. 18:01 by IDC detainees included:
 - Illegal entry into Trinidad and Tobago;
 - Overstayed visit/ working illegally/ expired travel documents;
 - Drug trafficking;
 - Trafficking counterfeit currency;
 - Tendering fraudulent documents.
- Detention at the IDC is utilized as a last resort, after Immigration Officers have sought a relative or person who is willing to put up a security bond for detainee custody release under an Order of Supervision;
- The discrepancies on the treatment of detainees between the written submissions provided to the Committee by the Ministry of National Security and those provided by the NGOs such as Living Water Community (LWC) and the Emancipation Support Committee of Trinidad and Tobago (ESCTT) were:
 - Lack of access to legal representation and the denial of legal representation for detainees upon request;

- Denial of detainee access to NGOs and the denial of NGO access to the detainees;
 - Detainees are not informed of their right to request asylum;
 - Sharing of bed spaces in housing units;
 - Lack of mattresses resulting in detainees sleeping on floors;
 - Leaks and insect infestations within the housing units at the IDC;
 - Housing of non-violent detainees with those detained for criminal/violent offences such as rape or murder;
 - Lack of an appropriate system for medical care for detainees with mental illnesses;
 - Lengthy stay at the IDC with no definite end date, for example a lengthy stay will range from 15 days to two years;
 - Lack of a proper complaint system;
 - Lack of a formal system for addressing language barriers at the IDC;
 - Accusations of verbal, physical, mental abuse and bullying by Detention Officers at IDC; and
 - Detainees' valuables being confiscated by officers at the IDC;
- The absence of visits by independent bodies to the IDC to conduct regular inspections and to assess conditions in order to ensure compliance with international human rights best practice;
 - The need to establish an independent complaints system to investigate the detainees' complaints;
 - The need for the evaluation of all detainees at the IDC by a trained psychiatrist;
 - During the last six years, approximately three (3) to four (4) detainees were referred to the St. Ann's Psychiatric Hospital for a mental evaluation;
 - There were approximately nine (9) detainees awaiting deportation at the IDC after serving time in the prisons or paying fines for criminal offences as at April 06, 2018;
 - The absence of a housing classification system based on the category of the offences;
 - The challenges faced by the IDC in order to repatriate detainees are:
 - The high cost of airfare to certain countries and the lack of state funding;
 - The lack of permission for repatriated detainees to '*pass through*' certain countries;

- The language barriers and the lack of availability of interpreters at the IDC;
 - The international standards which require all detainees considered as high risk to be escorted on flights to their country of origin at all times. Two (2) escorts are required for detainees returning to Jamaica, Guyana, Venezuela, Dominican Republic and three (3) escorts are required for detainees returning to China and Nigeria;
 - The airline ticket and housing costs for the detainees and escorts; and
 - The identification procedure and acquisition of travel documents for detainees.
- Visitors who seek to extend their stay in Trinidad and Tobago must apply for an extension on their landing certificate prior to the expiration date;
 - The need to recruit additional Detention Officers to fill the vacancies in the IDC in order to achieve the best practice ratio of 1:8 for Detention Officers to detainees;
 - The decision to provide bottled water to the detainees on a needs basis based on the previous destruction of the potable water dispenser by the detainees;
 - The restriction of the provision of hot water to the detainees as a result of a hot water incident involving Detention Officers and IDC detainees;
 - The increase in the food budget from \$2M in 2012/2013 to \$5.5M in 2016/2017 due to the increased catering prices from \$50 per day/detainee to \$80 per day/detainee;
 - There were 25 persons from African countries at the IDC who are in need of travel documents in order to be repatriated as at April 06, 2018;
 - The route through Turkey was initially sourced and funds released from the Ministry of National Security to enable the repatriation of detainees from African countries in April 2018. However, this route was no longer feasible as other jurisdictions did not facilitate the entry of the African Nationals;
 - The absence of a provision in the Immigration Act, Chap. 18:01 to determine the treatment of persons who are refugees or registered as asylum seekers in Trinidad and Tobago;
 - The intended use of the Minister's Permit by the Immigration Division as an interim measure for refugees until permanent measures can be established to provide temporary immigrant status for refugees in Trinidad and Tobago; and

- The use of landline telephones at established time periods if detainees do not have access to a mobile phone.

1.4. The Committee agreed to conduct a site visit to the Immigration Detention Centre on June 01, 2018. Some significant observations and the following key issues were noted:

- The lack of financial resources to construct a designated area for detainees who need to be quarantined due to illness or other considerations;
- The need for increased use of the provision under Section 40 of the Immigration Act, Chap. 18:01 which states a convicted illegal immigrant, *“is liable on summary conviction for a first offence to a fine of fifty thousand dollars and to imprisonment for three years, and on any subsequent conviction to a fine of one hundred thousand dollars and to imprisonment for five years,”* and for the convicted illegal immigrants to serve the period of imprisonment instead of the payment of fines issued by the Court;
- The facility used by the IDC was not purpose-built for use as a detention centre and is unable to fulfil the infrastructural requirements of a detention centre;
- The inability of many illegal immigrants to afford the fines levied by the Court;
- The recreation rooms at the IDC for the male detainees was not adequate given the high number of males detainees and the food provided was poor ;
- There was the absence of a fire escape and a sprinkler system at the facility;
- The detainees are unable to adequately communicate with IDC staff and there was a need for a resident interpreter at the IDC;
- The IDC accommodation costs for the detainees exceeds the deportation cost in **3.7, Table 9** and **Table 5**;
- Although there were recent refurbishment works, the ventilation and lighting were previously not fully functional and ventilation works were expected to be completed by July 2018;
- Some detainees housed at the IDC have their deportation papers after serving time in prison but have not left the IDC;

- Some detainees indicated that they are willing to purchase their own airline tickets upon completion of the period of imprisonment at the Maximum Security Prison;
- There is one detainee who had not physically moved from his mattress since he was detained at the IDC and other detainees suspected he may have a mental illness;
- The clothes provided by IDC were often mildewed and there was a limited supply of detergent for detainees to wash clothes; and
- The process for detainees seeking asylum and to verify the asylum documentation is slow.

1.5. The observations of the Committee during the site visit led to the Committee agreeing to convene a second public hearing on September 14, 2018. Some of the significant issues discussed included:

- There were 118 detainees at the IDC as at September 14, 2018 and seventy-five (75) percent of these detainees entered Trinidad and Tobago illegally;
- In 2018, there are approximately 7,000 asylum-seekers (**Figure 1**) in Trinidad and Tobago according to the United Nations High Commissioner for Refugees (UNHCR);
- Approximately 19,000 Venezuelans entered the country legally from 2017 to 2018 and seventeen (17) percent have overstayed their time in the country;
- There are 1,700 persons on Orders of Supervision as at September 14, 2018;
- The length of time a detainee stays on an Order of Supervision depends on the length of time to acquire the detainee's repatriation documentation and the nature of the breach of the Immigration Act, Chap. 18:01. Orders of Supervision may last up to two (2) years;
- There is an absence of legislation in Trinidad and Tobago to treat with refugees and asylum-seekers in Trinidad and Tobago;
- There are nineteen (19) Special Inquiry Officers at the Immigration Division who are charged with the responsibility of the 1,700 persons on Orders of Supervision;

- There are five (5) Special Inquiry Hearings (**See APPENDIX X**) held per day and at each Hearing a stenographer is required. The lack of stenographers in the public service to support the Special Inquiry Hearing for detainees has contributed toward delays in the special inquiry process;
- The cost of the security bond for the Order of Supervision varies according the cost of the airline tickets to repatriate the detainee to their country of origin;
- The security bonds provided under the Order for Supervision can be refunded when a person produces the ticket bought and the persons under the Order of Supervision has exited the country. The bond will not be refunded if the persons breached the Order of Supervision;
- The protest action in May 2018 at the IDC was due to the lack of information provided to detainees on their status and the length of their detention;
- The unwillingness of some detainees to sign visa documents or provide accurate personal identification information contributes to delays with the repatriation process; and
- The lack of Living Water Community (LWC) access to detainees at the IDC Aripo location who have sought asylum or refugee status via a third party and the use of a separate location to facilitate LWC or UNHCR visits due to security risks.

1.6. The Committee submits its findings and recommendations with respect to the treatment of detainees at the Immigration Detention Centre in Chapter 4.

1.7. Some of the Committee's key recommendations are:

- The Ministry of National Security collaborate with the Ministry of Attorney General and Legal Affairs to complete draft legislation on the treatment of persons of concern (asylum seekers, refugees) in Trinidad and Tobago;
- Given the increase in detainees from Latin American countries in **APPENDIX VIII**, the IDC recruit an in-house Spanish interpreter to facilitate communication between detainees and officials by June 2019 in accordance with Article 14(3)(f) of the International Covenant on Civil and Political Rights;
- In accordance with Guideline 8 (48[xv]) of the UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, the IDC establish an independent

complaints system for the submission and investigation of detainee complaints by June 2019;

- Given the link between increased staffing and the decreased length of time in detention, vacant contract positions at the IDC be filled by June 2019;
- Given the influx in the number of Venezuelan detainees at the IDC from 2015 to 2018 in **Table 8**, the Ministry of National Security review other alternatives to detention and implement at least one additional alternative to detention within fiscal 2019;
- The IDC be renovated to ensure that it complies with the applicable working conditions under Sections 31 to 45B of the Occupational Health and Safety Act, Chap. 88:08 (**See APPENDIX V**) in fiscal 2019;
- The IDC engage objective and qualified professionals from an independent agency/organisation to conduct annual visits to ensure compliance with Article 29 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment by June 2019; and
- The IDC establish a detainee classification policy in fiscal 2019 to provide for the effective separation of detainees with records of serious crimes in accordance with Article 10(2)(a) of the International Covenant on Civil and Political Rights.

2. INTRODUCTION

Human Rights and Treatment of Immigration Detainees

2.1. An immigration detainee at the IDC is a person who is in breach of the Section 8 of the Immigration Act, Chap. 18:01 and is a person that satisfies the criteria for an immigration detainee under Section 9 (4) of the Immigration Act, Chap. 18:01 outlined in **Table 1**.

2.2. Section 2 of the Immigration Act, Chap. 18:01 defines “deportation” as *“the removal under this Act of a person from any place in Trinidad and Tobago to the place whence he came or to the country of his nationality or citizenship or to the country of his birth or to such other country as may be approved by the Minister under this Act, as the case may be”*.

2.3. The United Nations Human Rights Office of the High Commissioner (UNHCR) defines human rights as, *“rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status.”*³

2.4. According to Article 9 of the United Nations International Covenant on Civil and Political Rights adopted in 1966, *“All detained persons must be notified of the reasons for their detention in writing, in a language understood by the migrant, stating the grounds for the detention, and setting out the conditions to apply for a remedy to a judicial authority”*⁴.

2.5. According to the Working Group on Arbitrary Detention of the United Nations Human Rights Office of the High Commissioner (OHCHR) indicates, *“The duration of immigration detention must always be as short as possible, and the decision to keep the person detained must be reviewed periodically. Under no circumstances should immigration detention*

³ UN Human Rights Office of the High Commissioner, <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>

⁴ UN Human Rights Office of the High Commissioner, International Covenant on Civil and Political Rights, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

be indefinite. If an individual is detained for purposes of deportation, they must be released whenever there is no longer a real and tangible prospect of removal⁵."

2.6. Article 14 of the Universal Declaration of Human Rights states that, *"Everyone has the right to seek and to enjoy in other countries asylum from persecution⁶."*

2.7. The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment was adopted by the United Nations General Assembly on December 09, 1988. These principles apply for the protection of all persons under any form of detention or imprisonment⁷. Principles 1, 6, 8, 15 and 29 state:

"1. All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person.

6. No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

8. Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.

15. Notwithstanding the exceptions...communication of the detained or imprisoned person with the outside world, and in particular his family or counsel, shall not be denied for more than a matter of days.

29. (1). places of detention shall be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment; and

(2) a detained or imprisoned person shall have the right to communicate freely and in full confidentiality with the persons who visit the places of detention or imprisonment ... subject to reasonable conditions to ensure security and good order in such places."

⁵ Revised Deliberation No. 5 on deprivation of liberty of migrants, Working Group on Arbitrary Detention, OHCHR, http://www.ohchr.org/Documents/Issues/Detention/RevisedDeliberation_AdvanceEditedVersion.pdf

⁶ Universal Declaration of Human Rights, Accessed September 21, 2018. <http://www.un.org/en/universal-declaration-human-rights/>

⁷ UN Human Rights Office of the High Commissioner, "Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment", <https://www.globaldetentionproject.org/wp-content/uploads/2016/06/The-Body-of-Principles-for-the-Protection-of-All-Persons-under-Any-Form-of-Detention-or-Imprisonment.pdf>

2.8. Article 31 and 32 of the 1951 Convention relating to the Status of Refugees which was acceded in Trinidad and Tobago on November 2000, states,”

“31 (1) The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

(2) The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

32 (1) The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

(2) The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

(3) The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.⁸”

Immigration Detention Legislation in Trinidad and Tobago

2.9. The legislation related to immigration detainees is summarized in **Table 1**.

Table 1
Legislation in T&T related to Immigration Detainees

Legislation	Matters related to Immigration Detainees
Section 5(2) of the Constitution of Trinidad and Tobago	<u>Human Rights</u> <i>“Without prejudice to subsection (1), but subject to this Chapter and to section 54, Parliament may not – (a) authorize or effect the arbitrary detention, imprisonment or exile of any person;</i>

⁸UN Human Rights Office of the High Commissioner, “Convention relating to the Status of Refugees Adopted on July 28, 1951”. <https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx>

	(b) impose or authorise the imposition of cruel and unusual treatment or punishment; (c) deprive a person who has been arrested or detained – (i) of the right to be informed promptly and with sufficient particularity of the reason for his arrest or detention; (ii) of the right to retain and instruct without delay a legal adviser of his own choice and to hold communication with him; (iii) of the right to be brought promptly before an appropriate judicial authority; (iv) of the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful; ... (e) deprive a person of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations; (g) deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness...; or (h) deprive a person of the right to such procedural provisions as are necessary for the purpose of giving effect and protection to the aforesaid rights and freedoms.⁹
Section 9 (4) of the Immigration Act, Chap. 18:01	<u>Criteria to be satisfied to be an Immigration Detainee</u> <i>“Where a permitted entrant is in the opinion of the Minister a person described in section 8(1)(k), (l), (m) or (n), or a person who –</i> (a) practices, assists in the practice of or shares in the avails of prostitution or homosexuality; (b) has been convicted of an offence and sentenced to a term of imprisonment for one or more years; (c) has become an inmate of any prison or reformatory; (d) was a member of a prohibited class at the time of his admission to Trinidad and Tobago; (e) has, since his admission to Trinidad and Tobago, become a person who would, if he were applying for admission to Trinidad and Tobago, be refused admission by reason of his being a member of a prohibited class other than the prohibited classes described in section 8(1)(a), (b), (c) and (p); (f) was admitted or deemed to have been admitted to Trinidad and Tobago under subsection (1) and remains therein after the expiration of the certificate issued to him under subsection (2) or under section 50(2); (g) has escaped from lawful custody or detention under this Act;

⁹ Constitution of Trinidad and Tobago, p18. <http://rgd.legalaffairs.gov.tt/Laws2/Constitution.pdf>

	(h) came into Trinidad and Tobago or remains therein with a false or improperly issued passport, visa or other document pertaining to his admission or by reason of any false or misleading information, force, stealth or fraudulent or improper means, whether exercised by himself or by any other person; (i) returns to or remains in Trinidad and Tobago contrary to the provisions of this Act after a deportation order has been made against him or otherwise; (j) came into Trinidad and Tobago as a member of a crew and, without the approval of an immigration officer or beyond the period approved by such officer, remains in Trinidad and Tobago after the departure of the vessel on which he came into Trinidad and Tobago; (k) has, since he came into Trinidad and Tobago broken any of the terms and conditions of the certificate issued to him under subsection (2), the Minister may at any time declare that such person has ceased to be a permitted entrant and such person shall thereupon cease to be a permitted entrant."
<u>Offence – Section 29(8) of Immigration Act, Chap. 18:01</u> any person who, having been removed or otherwise lawfully sent out of Trinidad and Tobago, enters or resides in Trinidad and Tobago without the permission in writing of the Minister.	<u>Repeat illegal entry - Fine and Period of Imprisonment</u> Liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for six months and, in addition to any penalty for such offence, is liable to be removed or again removed
<u>Offence – Section 40 of Immigration Act, Chap. 18:01</u> - enters Trinidad and Tobago at any place other than a port of entry and fails to report to an immigration officer for examination; - enters into, remains in or attempts to leave Trinidad and Tobago by means of a tampered passport or other fraudulent methods; - escapes or attempts to escape from lawful custody or detention; - eludes examination or inquiry..., having received a summons issued by a Special Inquiry Officer, fails without valid excuse to attend an inquiry or, where required by such summons;	<u>Deportation - Fine and Period of Imprisonment</u> Liable on summary conviction for a first offence to a fine of fifty thousand dollars and to imprisonment for three years, and on any subsequent conviction to a fine of one hundred thousand dollars and to imprisonment for five years

• <i>refuses to be sworn, or to affirm or declare, as the case may be, or to answer a question put to him or does not truthfully answer all questions put to him at an examination or inquiry under this Act;</i> • <i>knowingly and wilfully makes any false or misleading statement in an applicant declaration or examination/inquiry;</i> • <i>makes a false promise of employment or any false representation;</i> • <i>makes any charge to or receives any fee, recompense or reward from any person to secure or assist in securing the admission to Trinidad and Tobago of any person;</i> • <i>induces, aids or abets or attempts to induce, aid or abet any person to violate a provision of this Act;</i> • <i>comes into, remains in or attempts to leave Trinidad and Tobago by means of a tampered/fraudulent passport.</i>	
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Inquiry Stakeholders

Immigration Division, Ministry of National Security

2.10. The functions of the Immigration Division are governed by the Immigration Act, Chap. 18:01 and Immigration Regulations which make provisions for the admission of persons, refusal of entry, grant of resident status, process of deportation and conducting Special Inquiries and the grant of clearance to vessels and crew entering and departing the country.

United Nations High Commissioner for Refugees (UNHCR)

2.11. According to the Statute of the Office of United Nations High Commissioner of Refugees, the United Nations High Commissioner for Refugees (UNHCR), acting under the authority of the General Assembly¹⁰, *“assumes the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute and of seeking permanent solutions for the problem of refugees by assisting Governments and, subject to the approval of the Governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities”*.

2.12. The UNHCR implements arrangements through partners for detention monitoring as follows:

- i. Formal agreements with an NHRI, who already has a mandate for monitoring (and collaborates with UNHCR in several ways including by doing joint visits and reporting);
- ii. Formal partnership agreement with NGO/Institutions which access places of detention on behalf of (or jointly with) UNHCR for the purposes of delivering services and/or doing monitoring of conditions; and
- iii. Informal agreements with NGOs that already have access on their own (because they are already providing services).

Living Waters Community (LWC)

2.13. The LWC has served as Implementing Partner for UNHCR in Trinidad and Tobago for over two decades. The Ministry for Migrants and Refugees at LWC works with vulnerable migrants, inclusive of asylum-seekers and refugees, otherwise known as **“Persons of Concern”** or **“POCs”**. UNHCR performs all Refugee Status Determinations (RSD/s) under Mandate, while LWC assumes responsibility for identifying cases of concern to UNHCR ensuring their access to protection.

¹⁰ United Nations Resolution 319 A (IV) of December 3, 1949.

Emancipation Support Committee of Trinidad and Tobago (ESCTT)

2.14. The Emancipation Support Committee acts as an umbrella to advance the interests of Africans nationally and internationally and to promote national and regional development consistent with its objectives.¹¹ Over the decades, the ESCTT has primarily focused on undocumented migrants from the continent of Africa and migrants from Caribbean countries and has been involved in addressing the issues of undocumented immigrants.

Immigration Detention Centre (IDC), Aripo

2.15. The IDC, also known as the Aripo Detention Centre opened in 2009 and operates as a facility for short term detention for non-nationals¹². According to the Administrative Report of the Ministry of Justice for 2010/2011, the key mandate and functions of the IDC were to:

- Provide basic accommodation that ensures the well-being, safety and respect for privacy and inherent dignity of all detainees;
- Provide prompt and effective physical and mental health services to detainees;
- Cater to the basic human rights of the detainees including the freedom to express religious beliefs within the limitations of the necessary security arrangements;
- Provide recreational or activity services in order to maintain physical and mental health of the detainees; and
- Make appropriate provisions for the detainees with special needs to ensure their safety and comfort¹³.

¹¹ Emancipation Support Committee website. Accessed September 17, 2018. <http://www.emancipationtt.com/about-us/>

¹² Ministry of Justice, Administrative Report 2010-2011, p 11-12.

¹³ Ibid.

Refurbishments to the Immigration Detention Centre (IDC)

2.16. According to the Public Sector Investment Programme (PSIP) 2019, “the following works will also be undertaken in fiscal 2019... continued renovation of the Immigration Detention Centre, Aripo perimeter fence, installation of external lights and roof repairs...”¹⁴.

Budgetary Allocation

2.17. The budgetary allocation for the Immigration Detention Centre for the fiscal years 2014 to 2018 under Recurrent Expenditure and Development Programme Expenditure is provided in **Table 2**.

Table 2
Budgetary Allocation, Immigration Detention Centre

Budget Allocation	2014 (Actual)	2015 Actual)	2016 (Actual)	2017 (Actual)	2018 (Revised Estimates)	2019 (Estimates)
Estimates for Recurrent Expenditure	\$12,584,500 ¹⁵	\$16,787,106 ¹⁶	\$16,390,253 ¹⁷	\$16,277,786 ¹⁸	\$16,213,900	\$23,973,000
Estimates for Development Programme	\$0 ¹⁹	\$0 ²⁰	\$0 ²¹	\$1,461,821 ²²	\$2,589,000	\$2,000,000

Conduct of the Inquiry

2.19. The Committee held two (2) public hearings on Friday April 06, 2018 and September 14, 2018 respectively. During this time, the Committee questioned the officials on the various matters based on the inquiry objectives.

¹⁴ Public Sector Investment Programme 2019, p127 <https://www.finance.gov.tt/wp-content/uploads/2018/10/PSIP-Trinidad-and-Tobago.pdf>

¹⁵ Estimates, Details of Estimates of Recurrent Expenditure for the Financial Year 2016.

¹⁶ Estimates, Details of Estimates of Recurrent Expenditure for the Financial Year 2017.

¹⁷ Estimates, Details of Estimates of Recurrent Expenditure for the Financial Year 2018.

¹⁸ Estimates, Details of Estimates of Recurrent Expenditure for the Financial Year 2019.

¹⁹ Estimates of Development Programme for the Financial Year 2016.

²⁰ Estimates of Development Programme for the Financial Year 2017.

²¹ Estimates of Development Programme for the Financial Year 2018.

²² Estimates of Development Programme for the Financial Year 2019.

2.20. Prior to the public hearing, notice was given as to the general objectives of the inquiry and in response, written submissions were received from the following stakeholders;

- Ministry of National Security;
- Office of the Ombudsman of Trinidad and Tobago (OOTT);
- Eight (8) submissions from the Immigrant Detainees at the IDC (received after site visit to the IDC);
- United Nations High Commissioner for Refugees (UNHCR);
- Living Water Community (LWC); and
- Emancipation Support Committee of Trinidad and Tobago (ESCTT).

2.21. The Committee did not receive responses from the public call for submissions issued on March 09, 2018.

2.22. Table 3 below provides a list of the officials that were invited to the public hearings.

Table 3
Officials Attendance List

NAME	POSITION	MINISTRY/ ORGANISATION
Public Hearing held on April 06, 2018		
Mrs. Vashti Shrikrisen-Singh	Permanent Secretary (Ag.)	Ministry of National Security
Mrs. Charmaine Ghandi- Andrews	Chief Immigration Officer (Ag.)	Ministry of National Security
Mrs. Joanne Nelson-Joel	Asst. Chief Immigration Officer (Enforcement)	Ministry of National Security
Mr. Dennison Aley	Immigration Officer IV, IDC	Ministry of National Security
Mr. Curtis S. Belford	Deputy Director, Office of Law Enforcement Policy	Ministry of National Security
Mr. Kent Downer	Senior Emergency Medical Technician	Ministry of National Security
Ms. Dassie Bharath	Administrative Officer II	Ministry of National Security
Public Hearing held on September 14, 2018		
Mr. Vel Lewis	Permanent Secretary	Ministry of National Security
Mrs. Charmaine Gandhi – Andrews	Chief Immigration Officer	Ministry of National Security

Mr. Dennison Aley	Immigration Officer IV, IDC	Ministry of National Security
Mr. Kent Downer	Senior Emergency Medical Technician	Ministry of National Security
Mr. Keith Renaud	Director, Office of Law Enforcement Policy(OLEP)	Ministry of National Security
Mr. Patrick Cunningham	Manage, Programme Management Unit	Ministry of National Security
Ms. Allyson Weekes	Protection Advocate for Detention	Living Water Community
Ms. Gina Maharaj	Legal Officer II	Living Water Community
Mr. Ganesh Rampersad	Legal Officer I	Living Water Community

2.23. The Committee conducted a site visit to IDC on June 01, 2018. The site visit report is attached in **APPENDIX III**.

2.24. The **Minutes and Verbatim Notes** are attached as **APPENDIX I** and **APPENDIX II** respectively.

2.25. The Tenth Report was approved on February 8, 2019.

3. EVIDENCE

Statistical Evidence

3.1. The accommodation capacity of IDC is one hundred and fifty (150) detainees comprised of approximately one hundred and twenty (115) males and thirty-five (35) female detainees. According to the Immigration Division, the number of IDC detainees fluctuates daily due to new detainees received and deportation orders executed. For example, there were 208 detainees (168 males and 40 females) on October 14, 2016,²³ 126 detainees (91 male detainees and 35 female detainees) on March 19, 2018, 120 detainees (85 male detainees and 35 female detainees) on April 06, 2018, 139 detainees (103 male detainees and 36 female detainees) on July 02, 2018 and 118 detainees on September 14, 2018 at the IDC.

3.2. **Table 4** provides a breakdown of the 716 detainees (509 males and 207 females) deported from the IDC in 2016 based on nationality²⁴.

Table 4
Number of Immigrants Deported in 2016

Country/Nationality	Total
Bangladesh	22
Barbados	1
Brazil	1
China	95
Colombia	12
Cuba	18
Denmark	1
Dominican Republic	78
Ghana	6
Grenada	25
Guyana	127
India	13

²³ Minister of National Security, Appropriation (Financial Year 2017) Bill, 2016, Standing Finance Committee, October 14, 2016, p244. Accessed February 19, 2018. <http://www.ttparliament.org/hansards/hh20161012.pdf>

²⁴ Deportation statistics for 2013-2015 and 2017 were not provided to the Committee as a result of the absence of computerized records.

Indonesia	1
Jamaica	162
Nigeria	31
Pakistan	3
Sierra Leone	1
Spain	1
St. Vincent & Grenadines	13
United Kingdom	3
United States Of America	1
Venezuela	101
Total	716

3.3. Table 5 shows the total repatriation²⁵ cost for detainees for the years 2012 to 2016 was \$9,107,439.19. Repatriation costs include airline tickets for the detainee and escorts (three (3) escorts per detainee), accommodation, meals, warm clothing (if required), miscellaneous expenses and other allowances. The last two airline charters each cost an estimated three (3) million and five (5) million dollars respectfully.

Table 5
Repatriation Cost 2012 to 2016

Years	Repatriation Cost
2012/2013	\$2,025,206.40
2013/2014	\$2,238,274.27
2014/2015	\$4,053,144.74 ²⁶
2015/2016	\$790,813.78
Total	\$9,107,439.19

3.4. Table 6 shows the repatriation cost incurred for countries with the highest number of detainees for the years 2015 to 2017.

Table 6
Average Repatriation Cost²⁷ for IDC Detainees as at January 18, 2019

Country	Types of Cost Incurred	Estimated Cost (\$TT)
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²⁵ “Repatriation” is defined as the personal right of a refugee, prisoner of war or a civil detainee to return to his or her country of nationality under specific conditions laid down in various international instruments (Geneva Conventions, 1949 and Protocols, 1977, the Regulations Respecting the Laws and Customs of War on Land, Annexed to the Fourth Hague Convention, 1907, human rights instruments as well as customary international law). Repatriation as a term also applies to diplomatic envoys and international officials in time of international crisis as well as expatriates and migrants. *Key Migration Terms, International Organization for Migration website, Accessed June 12, 2018.* <https://www.iom.int/key-migration-terms>

²⁶ Includes cost to charter airline to Nigeria in the sum of \$2,485,587.00.

²⁷ Ticket costs can vary depending on the time of year of the repatriation. Additionally international standards require that two (2) escorts be present for detainees repatriated to Jamaica, Guyana, Dominican Republic and Venezuela while three (3) escorts are required for detainees repatriated to China and Nigeria. As at January 18, 2019, there is only one route to Nigeria which is utilized for detainee repatriation as it does not require the detainee to be in possession of a visa when travelling.

Nigeria	One Way Ticket for Detainee	39,964.00
	Return Ticket for Escorts [\$57,480.00x3]	172,440.00
	Meals	5,000.00
	Accommodation [\$6500x3]	19,500.00
	Total Estimated Cost	236,904.00
China	One Way Ticket for Detainee	8,800.00
	Return Ticket for Escorts [\$17,500.00x3]	52,500.00
	Meals/ Accommodation	12,000.00
	Total Estimated Cost	73,300.00
Guyana	One Way Ticket for Detainee	2,700.00
	Return Ticket for Escorts [\$5,300.00x2]	10,600.00
	Total Estimated Cost	22,200.00
Dominican Republic	One Way Ticket for Detainee	4,200.00
	Return Ticket for Escorts [\$9,000.00x2]	18,000.00
	Total Estimated Cost	22,200.00
Jamaica	One Way Ticket for Detainee	4,100.00
	Return Ticket for Escorts [\$8,300.00x2]	16,600.00
	Total Estimated Cost	20,700.00
Venezuela	One Way Ticket for Detainee	3,200.00
	Return Ticket for Escorts [\$7,500.00x2]	15,000.00
	Total Estimated Cost	18,200.00

3.5. Table 7 shows the complement of 108 staff and category of staff assigned to the IDC as at January 31, 2018. As at July 10, 2018, IDC had a sanctioned strength of 131 staff with 102 filled and 29 vacancies.

Table 7
Complement and Category of IDC Staff as at January 31, 2018

Position	Number	Shortage
Detention Manager	1	0
Assistant Detention Manager	2	0
Detention Supervisor	5	0
Woman Detention Supervisor	0	1
Detention Officer II	4	5
Woman Detention Officer II	3	2
Detention Officer I	59	7

Woman Detention Officer I	26	2
Senior Emergency Medical Technician	1	0
Emergency Medical Technician	3	1
Facilities Technician	0	1
Maintenance Attendants	3	1
Business Operations Assistant II	0	1
Business Operations Assistant I	1	2
Total	108	23

3.6. **Table 8** shows the number of Venezuelan immigrants that arrived in Trinidad and Tobago and the ports of entry for the period 2015 to 2017.

Table 8
Number of Venezuelan Immigrants who arrived for the period 2015 to 2017

Port of Entry	2015	2016	2017
Piarco Airport	57,333	28,853	17,259
ANR Robinson Airport	36	90	52
Boarding Stations, Port-of-Spain (Queen's Wharf)	396	99	861
Pointe-a-Pierre	2,165	2,191	1,228
Chaguaramas	43	26	18
Point Lisas	18	48	23
Cedros	1,216	4,873	5,111
Scarborough	1	0	0
Charlotteville	1	0	0
San Fernando	367	1,239	1,069
Claxton Bay	23	37	1
National Fisheries, Port-of -Spain	3	3	0
Total	61,602	37,459	25,622

3.7. The average daily cost per detainee is approximately \$300.00 and this includes meals, clothing, medicine, staff and utilities. **Table 9** shows the total cost of meals for detainees for the years 2012 to 2018.

Table 9
Cost of Meals for Detainees at IDC from 2012 to 2018

Fiscal Year	40- Food At Institutions	
	Estimate	Revised Estimate
2012/2013	\$4,392,240.00	\$2,059,401.54
2013/2014	\$3,532,000.00	\$2,657,278.78
2014/2015	\$5,000,000.00	\$3,770,600.22
2015/2016	\$5,500,000.00	\$5,244,676.47
2016/2017	\$6,000,000.00	\$5,552,370.00
2017/2018	\$7,000,000.00	-

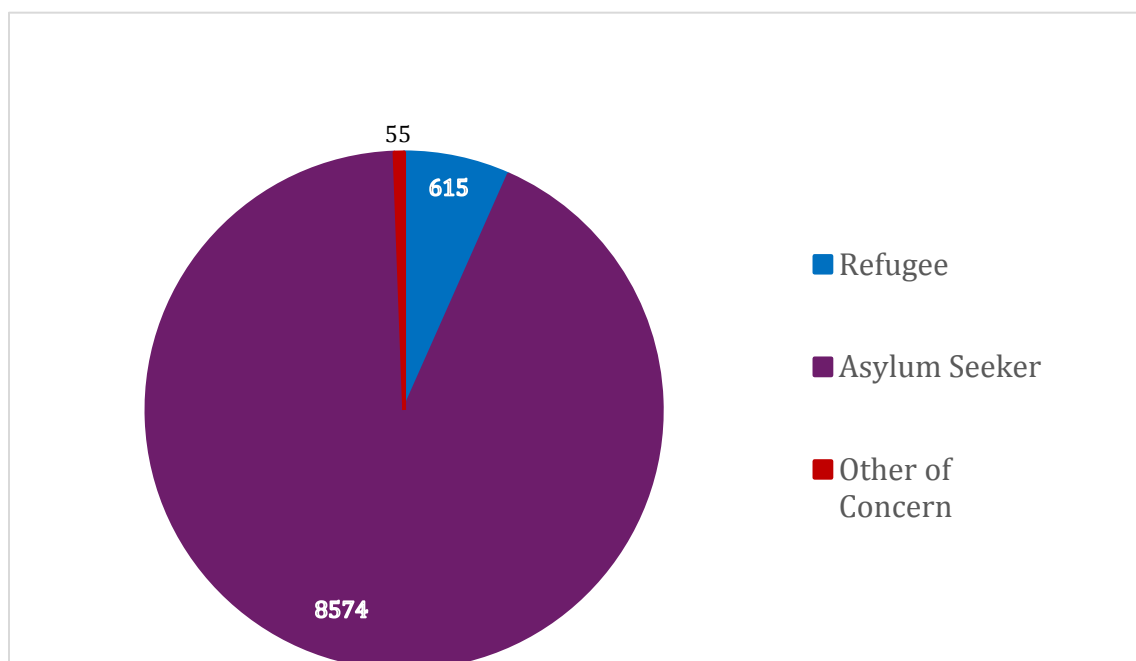
3.8. Table 10 shows the number of staff at the IDC who speak a foreign language (as at November 18, 2018).

Table 10
Number of Staff Speaking a Foreign Language

Number of Staff	Foreign Language	Qualification/Certification Level
1	Spanish	Level II (Intermediate) CXC General Proficiency – Grade 2
1	Chinese (Mandarin)	Level I (Basic)
1	Spanish Chinese (Mandarin)	CXC General Proficiency – Grade 1 Level I (Basic)

3.9. There are 9,244 persons of concern (5,684 male and 3,560 females) registered with UNHCR in Trinidad and Tobago. **Figure 1** to **Figure 3** below illustrates the number of persons of concern by legal status, the year registered and the country of origin from 2012 to October 31, 2018.

Figure 1
Status of Persons of Concern²⁸ registered at the UNHCR from 2012 to October 31, 2018



²⁸ “Persons of Concern” are defined by UNHCR as persons “who are refugees, returnees, stateless people, the internally displaced and asylum-seekers.”

Figure 2
Number of Persons Registered with UNCHR from 2012 to October 31, 2018

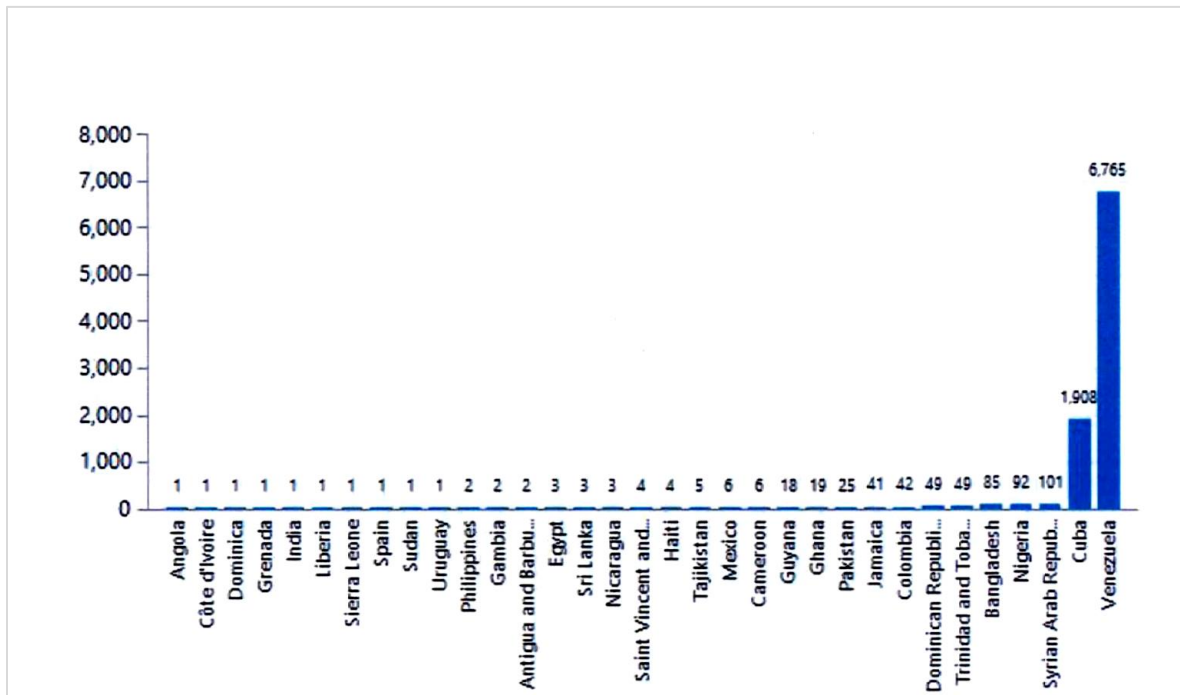
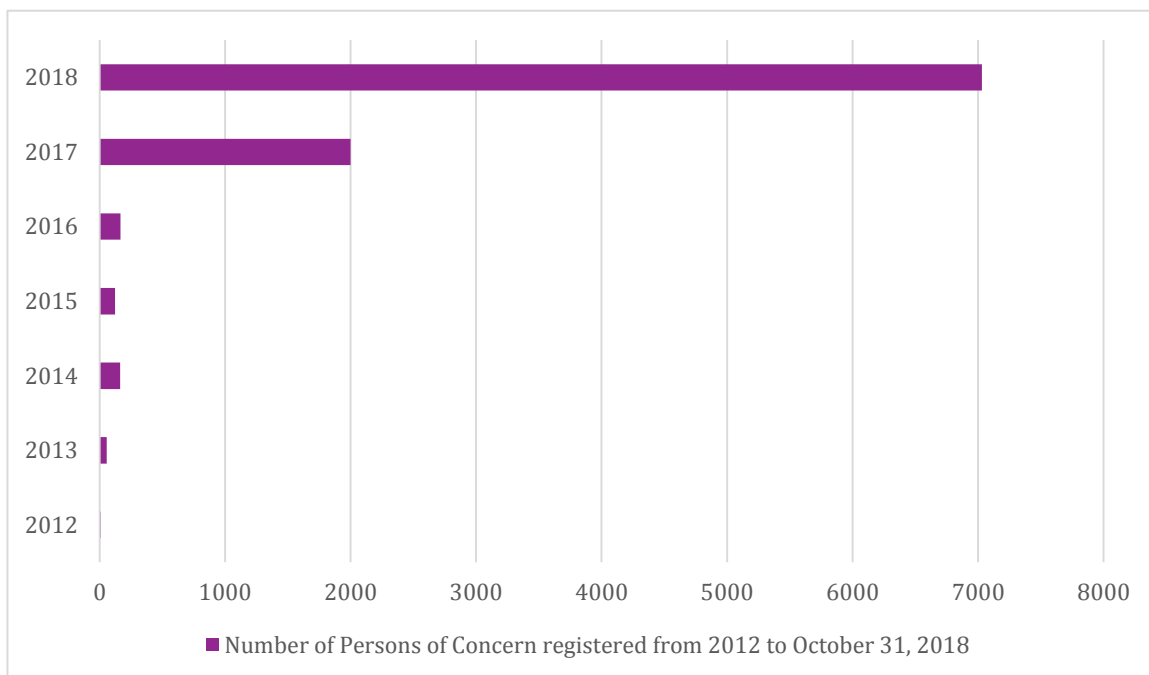


Figure 3
Persons of concern by Country of Origin from 2012 to October 31, 2018



Objective 1: To Determine the Treatment of Detainees at the Immigration Detention Centre

Legislation / Regulations for Treatment of Detainees

3.10. The IDC accommodates male and female detainees in two (2) separate dormitories in accordance with international best practices.

3.11. The IDC compliance status to the Immigration Detention Centre Operational Orders for the treatment of the immigration detainees is provided in **APPENDIX IV**.

Legal Representation

3.12. The LWC submission indicated that there were instances that IDC officials dissuaded the detainees at the IDC from seeking legal representation and other instances where detainees were denied access to legal representation.

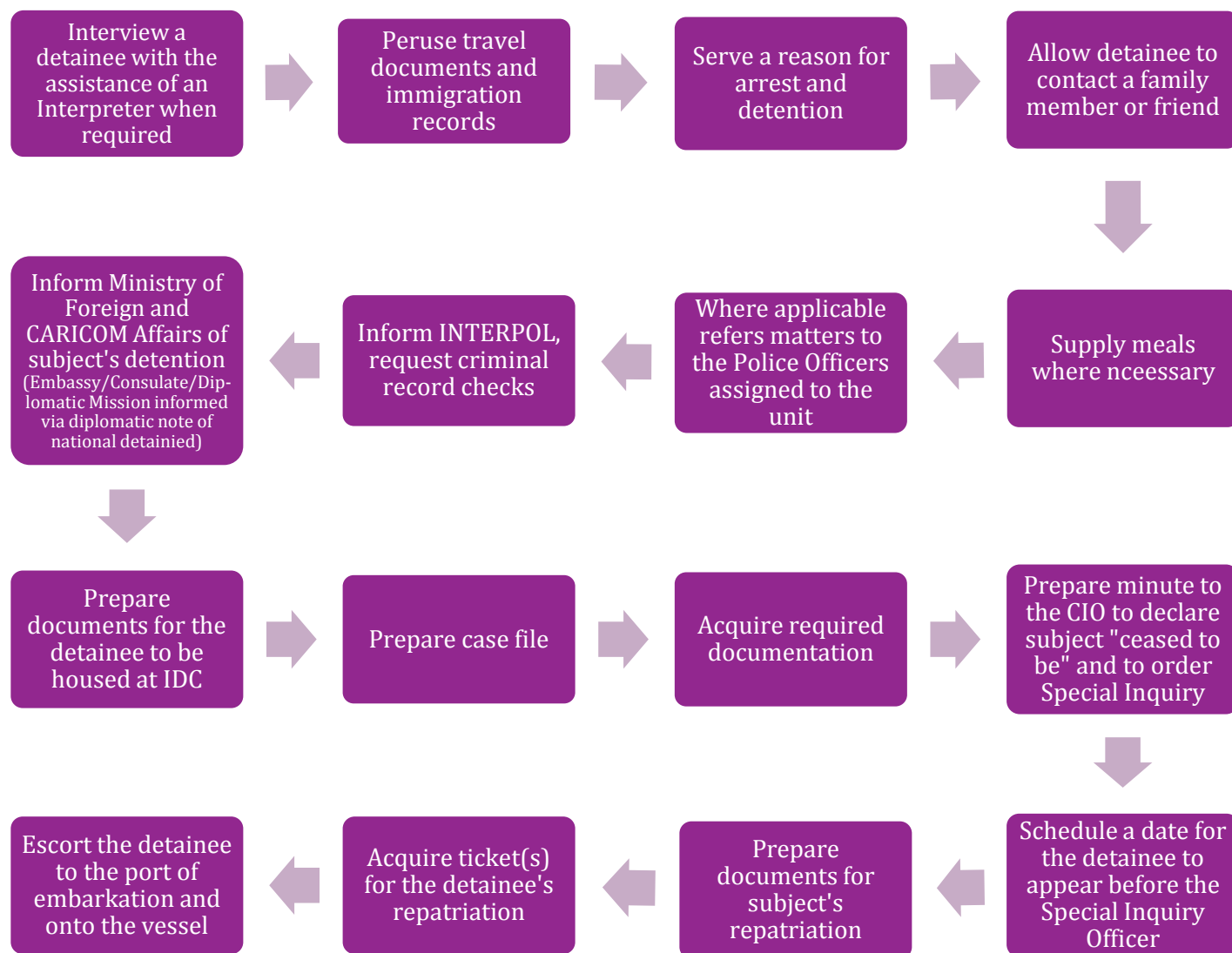
Procedure for Detention of a Foreign National

3.13. According to the Immigration Division, Sections 15 and 16 of the Immigration Act, Chap. 18:01, empowers an Immigration Officer or a TTPS Officer to detain persons without a warrant, pending inquiry, examination, appeal or deportation at an immigration station or other place satisfactory to the Minister.

3.14. Children [under the age of eighteen (18)] are not detained at the IDC. Where possible, a minor may be placed with relatives under an Order of Supervision. The child must be accompanied by relatives and return to the Enforcement Unit, Immigration Division on a scheduled date with a ticket for their departure. If a minor is involved in criminal activities, the police may take the person into custody and hold him/her at a Child Rehabilitation Centre.

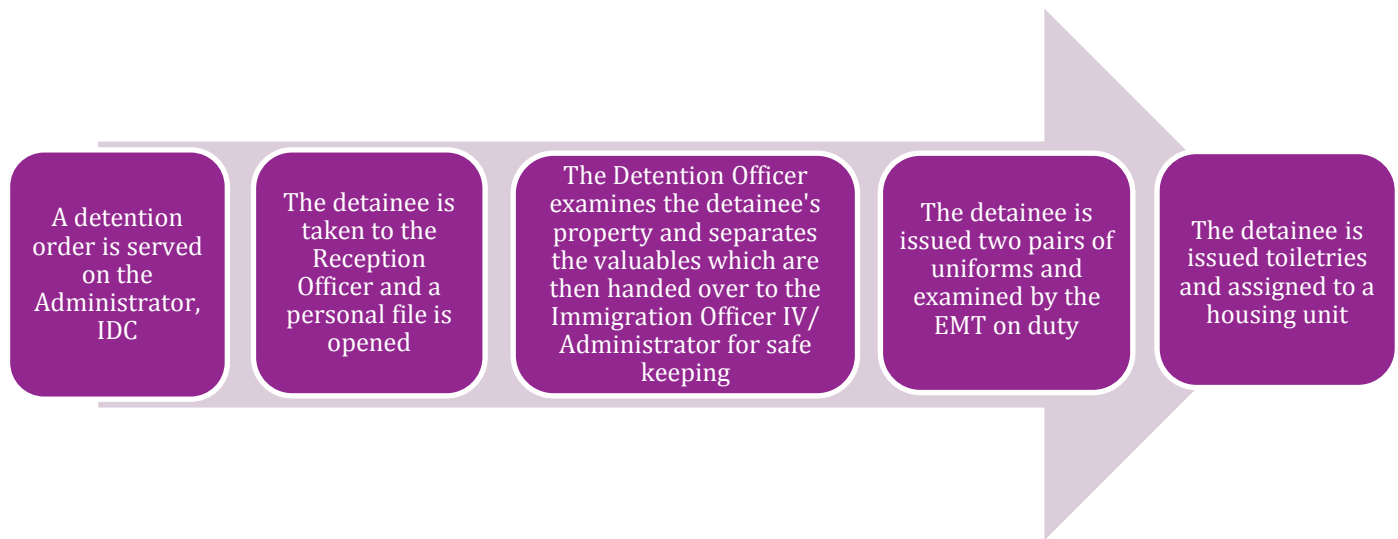
3.15. Figure 4 outlines the procedures for detention, deportation or voluntary departure.

Figure 4
Detainee Procedures for Detention, Deportation or Voluntary Departure



3.16. Figure 5 below shows the procedure for the detention of a foreign national at the IDC.

Figure 5
Procedure for the Detention of a Foreign National



Order of Supervision

3.17. A detainee can be placed on an Order of Supervision in accordance with Section 17(1) of the Immigration Act, Chap. 18:01 due to the following:

- the nature of the crime; and
- If family members or friends can provide accommodation for the detainees.

3.18. As at September 14, 2018 there are approximately 1,700 persons on Orders of Supervision.

3.19. The stages of a special inquiry process of the IDC (See **APPENDIX X**) are guided by Section 22, 23, 24 and 25 of the Immigration Act, Chap. 18:01 and Regulations 25, 26 and 29 of the Immigration Regulations. However, the timeframe for each special inquiry varies on a case by case based on factors such as the nature of the breach, the level of cooperation from the detainee and other travel documents required.

Excessive Force

3.20. Detention Officers are Special Reserve Police Officers (SRPs) assigned to guard/ manage detainees and as such are guided by the TTPS Use of Force Policy in **APPENDIX VII**.

3.21. The approximate timeframe for the investigation of a detainee complaint is one (1) week from the date of receipt of the report.

3.22. Disciplinary measures utilised for Detention Officers are in keeping with the Regulations and Guidelines outlined in the Civil Service Regulations, Section 84 to Section 114 of the Public Service Commission Regulations and the Chief Personnel Officer's Guidelines for the Administration of Devolved Functions.

3.23. According to the Ministry of National Security, there was one (1) anonymous report by a Guyanese national on the use of excessive force over the past five (5) years and the July 23, 2014 investigation was closed based on the absence of facts after interviews were conducted with twenty-three (23) male Guyanese detainees. In addition, this complaint was forwarded by the Ministry of Foreign and CARICOM Affairs, Trinidad and Tobago to the Ministry of Foreign Affairs, Guyana.

3.24. The Emancipation Support Committee of Trinidad and Tobago (ESCTT) indicated that there have been cases of severe physical brutality over many years, however, in recent years individual complaints of physical abuse have become less frequent. Additionally, the ECTT stated that the July 2014 incident at the IDC was not properly investigated and highlighted the need for independent investigations when allegations of physical abuse are reported.

3.25. The LWC also highlighted a past instance of detainee bullying and victimisation by Detention Officers when a complaint on the treatment of the detainees by Junior Detention Officers was communicated to the Senior Detention Officers.

Medical Treatment of Detainees

3.26. According to the Ministry of National Security, upon admission to the IDC, detainees are granted physical and/or mental examinations by a registered doctor provided by the Ministry of Health. Upon request, the detainee is allowed to see the doctor for any medical complaint that requires further examination or necessary action. The resident doctor visits the IDC every Thursday and the detainee waiting period is based on the caseload of the EMT.

3.27. The IDC has a complement of one (1) resident medical doctor and four (4) full time EMTs/Paramedics, inclusive of one Senior Medical Technician at the IDC. The EMTs/Paramedics assist the doctor during the visit and comply with his instructions regarding the management of all sick detainees.

3.28. During the site visit the Committee observed and was later informed by other detainees that there was a detainee who was suspected of having a mental illness as he did not move from the mattress he was lying on since admission to the IDC.

3.29. A detainee that requires ongoing treatment/medication, is sent to the Arima Health Facility and if necessary, then referred to the relevant medical institutions for specialized attention. Persons detained who exhibit symptoms of a physical or mental illness are examined by the resident medical doctor, who may refer such individuals for specialized care/evaluations at the relevant medical institutions and if necessary, follow-up on clinic appointments. Medication for the IDC detainees is obtained from the relevant medical institution and if unavailable, purchased through the approved pharmacies.

3.30. Psychiatric evaluations are conducted at either the Arima Health Facility or the Psychiatric Unit, TTPrS or the St. Ann's Psychiatric Hospital. Other ongoing medical treatment is conducted at Arima Health Facility and if necessary the Eric Williams Medical Science Complex, Mt. Hope or the Port of Spain General Hospital.

3.31. According to the ESCTT and LWC, there were instances of delayed/a slow level of responsiveness to medical complaints by detainees that require referral to medical institutions. In one example of a 2014 incident, the ESCTT indicated that as a result of IDC protest action, a male Ghana national was beaten and while at the Sangre Grande Hospital doctors identified head injuries, damage to the ear and chest pains which required further observation, however, the detainee was returned to the IDC and thereafter rushed to the Hospital with complications the following day as well as on other occasions. It was alleged that the neglect of the injuries for one and a half years, led to the loss of hearing in one ear and other medical problems which doctors attributed to the unhealed fracture.

Suicide

3.32. Over the past five (5) years at the IDC there was one (1) person who committed suicide; a female Guyanese in 2013, who committed suicide via hanging from the rafters of the ceiling of the washroom of the dormitory in the female housing unit.

Length of Time in Detention at the IDC

3.33. A detainee spends approximately eight (8) hours per day in the sleeping area of the IDC dormitory. Pictures of the sleeping area and indoor recreation area of the IDC dormitories can be viewed in **APPENDIX III**. The detainees are awakened at 6:00 a.m., locked at 10:00 p.m. nightly and given a two (2) hour outdoor recreation period daily (for female detainees from 10:00 a.m. to 12:00 p.m. and for male detainees from 3:00 p.m. to 5:00 p.m.).

3.34. According to the ESCTT, there have been a few persons detained for periods between one (1) and two (2) years as well as between three (3) to four (4) years.

3.35. According to the Ministry of National Security, the average length of time to process a detainee is approximately two (2) to three (3) weeks. The longest period of stay at the IDC as at January 31, 2018 was four (4) years and seven (7) months as seen in **Table 11** below.

Table 11
Longest Time period in Detention at IDC as at January 31, 2018

Nationality	No. of Detainees	Date Detained at Immigration Detention Centre
Nigerian	1	October 17, 2013 to Present

3.36. In addition to the large number of immigrants deported (**See Table 4**) and the cost to repatriate a detainee (**See Table 5 and Table 6**); the challenges to reduce the length of stay at the IDC are as follows:

- i. The language barriers and the availability of interpreters in order to interview detainees;
- ii. The absence of valid travel documents tendered upon detention of the detainee;
- iii. The delays to obtain a travel document from an Embassy, Consulate or Diplomatic Mission for the detainee;
- iv. The length of time taken by the Embassy, Consulate or Diplomatic Mission to verify nationality;
- v. The absence of an Embassy, Consulate or Diplomatic Mission for a particular nationality within the Caribbean region and the Enforcement Unit, requires the Immigration Division to write to the Ministry of Foreign and CARICOM Affairs for assistance;
- vi. The pending and outstanding police investigations;
- vii. The pending matters before the Court;
- viii. The non-compliance of the detainee during the Special Inquiry Process;
- ix. The detainee does not agree with the decision of the Special Inquiry Officer;
- x. The detainee appeals the decision of the Special Inquiry Officer;
- xi. The length of time to source funds from friends or relatives to purchase tickets;
- xii. The unavailability of funds to purchase a ticket for repatriation;
- xiii. The unavailability of airline tickets/routes;
- xiv. The need to obtain permission from other jurisdictions to allow detainees to pass through their borders on route to their homeland;

- xv. The need to locate other routes to repatriate detainee(s) to country of origin;
- xvi. The visa applications on behalf of the detainees and escorts (if required); and
- xvii. The detainee's unwillingness to return to their homeland.

3.37. According to the Ministry of National Security, there were three (3) African nationals who refused to sign visa forms in order to be repatriated for the period 2015 to 2017 and as at January 31, 2018, there were twenty-one (21) IDC detainees from the African Continent who did not possess the requisite visa in order to be repatriated.

Visits

3.38. According to the Ministry of National Security, detainees at the IDC are allowed visits from family members, friends, legal representatives and the relevant Embassies and Consulates. **Table 12** provides the time periods that persons related to the detainees are allowed to visit.

Table 12
IDC Visits

Detainee	Family Members and Friends	Special Visits²⁹
Male Detainees	Wednesday, Fridays and Saturday from 8:00a.m. - 3:00p.m.	Visits allowed at any time and accommodated in a private room upon the proper notification of the visits.
Female Detainees	Tuesday, Thursday and Saturday from 8:00a.m. - 3:00p.m.	Visits allowed at any time and accommodated in a private room upon the proper notification of the visits.

3.39. According to the ESCTT, family life is severely impacted due to the physical separation of husbands from wives and children; children are not permitted to visit. ESCTT recommended measures to permit the introduction of special family visits at reasonable intervals at IDC.

3.40. Although, the Immigration Division had facilitated some UNHCR interviews at the Immigration Division located at Henry Street, Port of Spain, there is limited UNHCR

²⁹ Special Visits refers to visits granted to Living Water Community (and other similar organizations), Legal Representatives, Embassies and Consulates. A 'special' visit can be facilitated outside of the normal visiting hours and in designated spaces at IDC rather than in the prescribed 'no-contact' visitor area. Detainees and their visitors are kept in view by a Detention Officer during all such 'special' visits.

visitation access at IDC. As at June 27, 2018, LWC indicated that staff had no official IDC access since December 24, 2014.

Meals and Drinking Water for Detainees

3.41. According to the Ministry of National Security, detainees are provided with three (3) meals daily (**See APPENDIX VI**) and special diets based on the recommendation of the resident medical doctor.

3.42. The Detention Officer Supervisors of the male and female housing units at the IDC are responsible for ensuring that detainees are given three (3) daily meals. The detainee meals are provided by a caterer at the cost of approximately \$80.00 for the three (3) meals per day/detainee (**See Table 8**). Submissions from the Ministry of National Security and LWC confirmed that special diets were supplied based on the recommendation of the resident medical doctor only.

3.43. According to reports submitted to the LWC, meals provided were insufficient, poorly prepared and did not reflect a healthy diet and bottled drinking water was not consistently provided to the detainees who often drank tap water.

Complaints

3.44. The LWC indicated that there is the absence of an established procedure to submit complaints at the IDC and language barriers compound this problem. This has resulted in the alleged increased payment of bribes and a fear to submit complaints due to fear of increased tensions with the IDC staff.

3.45. The ESCTT indicated there was discriminatory treatment of detainees based on race and nationality that impacted the length of detention and punishments.

3.46. According to the Office of the Ombudsman of Trinidad and Tobago (OOTT), two (2) complaints were received against the IDC over five (5) years (**See Table 13**). The

2016 complaint was related to delayed travel arrangements and lack of access to communicate with family members.

Table 13
Number of Ombudsman Complaints against the IDC from 2013 to 2017

Year	No. of Complaints Received
2013	1
2014	0
2015	0
2016	1
2017	0
Total	2

3.47. The primary complaint submitted to LWC was delayed access to medical treatment which resulted in multiple protests. In addition, numerous complaints were submitted on the difficulties to have meetings with Immigration Officers.

3.48. Other types of detainee complaints related to treatment and the Ministry of National Security's response are outlined in **Table 14**.

Table 14
Detainee Complaints related to IDC Treatment

No.	Detainee Complaint related to Treatment	Ministry of National Security Response
1.	Detainees not aware they can request an extension of stay at Immigration Division	Upon arrival, foreign nationals must declare their purpose of visit and length of stay. Based on the interview conducted, the Immigration Officer must establish if the national is admissible or not. For example: • a CARICOM national who declares their purpose of visit is for business and length of stay is three (3) days and has met all other immigration requirements is granted six (6) months upon entry under the CSME agreement; • the Republic of Trinidad and Tobago has visa agreements with other foreign countries. For example, a Dominican Republic national does not require a visa for any purpose for up to ninety (90) days upon entry; • persons with work permits inform the foreign national that they must visit the office to have the work permit endorsed in their passport and submit medicals if their work permit is beyond one (1) year; and • persons with a student permit are advised that they have seventy-two (72) hours to report to the Immigration

		Offices located either in Port-of-Spain, San Fernando or Tobago to submit their student permit application and all the required documents. Therefore, foreign nationals are granted sufficient time in order to seek further extensions if required. It is the responsibility of the foreign national to visit the Immigration Offices as in any other jurisdiction.
2.	Female Detention Officer is present for the strip search of a male detainee	Full searches ³⁰ are conducted in the presence of an EMT of the same sex as the detainee being searched and this search is not conducted in the view of others not involved in conducting the search. The IDC does not practice cross-gender supervision and therefore, male detainees are supervised by male Detention Officers while female detainees are supervised by female Detention Officers.
3.	Members of the TTPS were allegedly summoned to inflict physical punishment on detainees after IDC protests	Assistance from external agencies such as the TTPS, to contain detainee disturbances or similar emergency situations at the IDC can only be requested by the Detention Manager or his nominee. Such assistance is only sought where the Detention Officers on duty are unable to neutralize an existing emergency situation and it is felt that the nature and extent of the situation requires urgent external intervention to prevent the said situation from escalating. Only (1) complaint was received regarding physical abuse. See item 3.23.

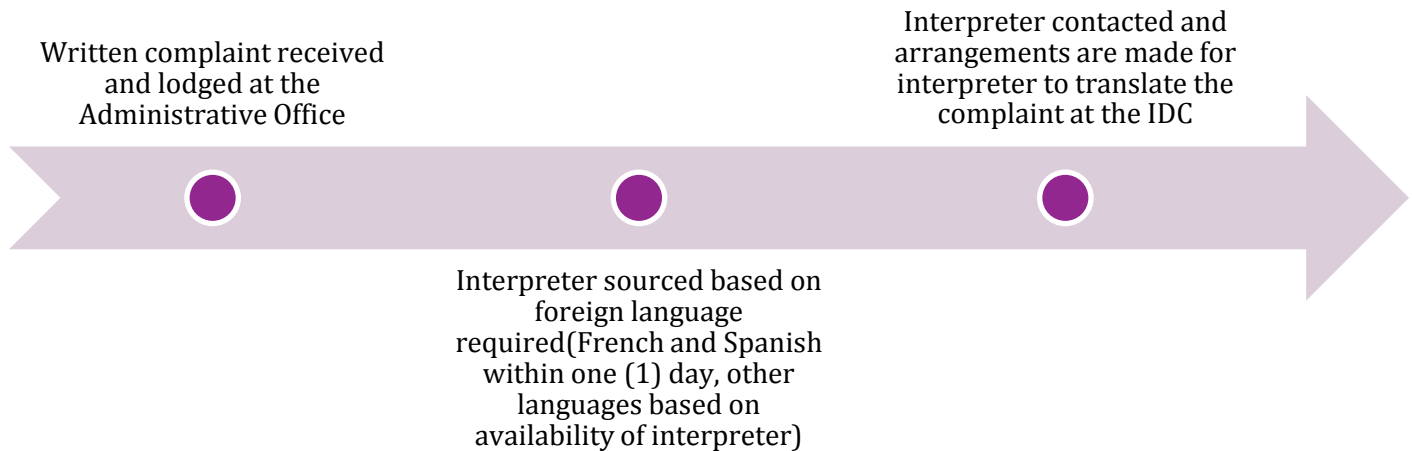
Complaints submitted in a Foreign Language

3.49. Detainee complaints submitted to the IDC take an average of 24 to 48 hours to process depending on the type of complaint. However, complaints in foreign languages take an average of 24 hours to be translated based on the availability of interpreters for the language.

3.50. Figure 6 highlights the procedure for processing an IDC detainee complaint submitted in a foreign language.

³⁰ Searches, including 'full' searches (a search that requires the removal and inspection of all clothing and footwear) are conducted during the admission, removal or transfer of a detainee and on any other occasion where such searches are deemed necessary for the preservation of safety and security. Searches are therefore conducted to reduce the risk of the possession of any unauthorized article; harm to the public, detainees or staff; damage to property; and/or escape or assisting an escape from custody.

Figure 6
Procedure for a Detainee Complaint in a Foreign Language



3.51. Challenges identified by the IDC to process a complaint written in a foreign language include:

- The availability of interpreters for the identified foreign language;
- Foreign language interpreters have to be sourced from other countries (Cuba, Venezuela, China [various dialects]) with the assistance of the International Organization for Migration (Trinidad Office). In these instances the Immigration Division is responsible for bearing the cost of airfare and accommodation;
- The availability of funding to affect payments to interpreters; and
- The assistance (in some instances) from the Embassy/Consulate or Honorary Consul's staff members who may speak the foreign language to translate the detainee's complaint.

Training of Special Reserve Police (SRP) Officers

3.52. The Special Reserve Police Officers engaged on contract as Detention Officers at the IDC undergo an entrance examination, interviews, character investigations, medical evaluations, psychological training and a twelve week (12) induction training programme. Upon completion of initial training and employment, there is ongoing developmental training.

3.53. The induction training programme is coordinated by the Office of Law Enforcement Policy (OLEP) and administered by the Police Academy of the TTPS. The programme is non-residential, comprises a total of four hundred and forty (440) contact hours and the curriculum includes courses on:

- Police Procedures;
- Criminal Law and Laws of Evidence;
- Traffic Laws and Procedures;
- Behavioural Sciences; and
- Police Skills.

Language Barrier

3.54. The LWC submission indicated that there is a language barrier between the detainees and the Detention Officers and there is a need for an in-house interpreter for the facility. During the site visit the Committee observed that the increase of detainee nationals from Latin American countries at the IDC heralded the need for an interpreter at the facility.

Asylum Seekers

3.55. In the pursuit of the inquiry objectives, the Committee was informed of a number of important issues regarding asylum seekers, who were also detained at the IDC. The LWC submission indicated that detainees were not informed of their right to seek asylum in accordance with the Universal Declaration of Human Rights. In addition, there were instances of lack of follow-up by IDC officials in cases where the detainees sought asylum.

3.56. According to the LWC, asylum seekers must register with LWC prior to a Refugee Status Determination Interview conducted by UNHCR. The UNHCR makes the final determination on refugee status and the information is shared with the IDC. Detainees that are not deemed as refugees remain at IDC and detainees that are deemed as refugees are released from IDC.

3.57. According to the LWC, prior to June 2018, registered asylum-seekers were not required to pay a security deposit pursuant to Section 17 (1) of the Immigration Act, Chap. 18:01. However, there has been a shift in policy, from the period July 2018 to November 2018, the LWC has recorded at least eight (8) instances where POCs, who were detained and released, paid a security bond.

3.58. According to LWC the draft working document entitled, *“A Phased Approach Towards the Establishment of a National Policy to address Refugee and Asylum Matters in the Republic of Trinidad and Tobago,”* authorities may commit the person to a place of detention for a period of detention not exceeding ten (10) days or release the person unconditionally or on condition that the person resides or remains in a particular district or place in Trinidad and Tobago except in the following cases;

- i. To verify identity;
- ii. To determine elements on which the claim for refugee status or asylum is based;
- iii. In cases where asylum seekers have destroyed their travel and/or identity documents or have used fraudulent documents in order to mislead the authorities of the State in which they intend to claim asylum; and
- iv. To protect national security and public order³¹.

³¹ “A Phased Approach Towards the Establishment of a National Policy to address Refugee and Asylum Matters in the Republic of Trinidad and Tobago,” <http://www.acnur.org/fileadmin/Documentos/BDL/2016/10346.pdf?file=fileadmin/Documentos/BDL/2016/10346> pg. 6

Objective 2: To Examine the Physical Conditions at the Immigration Detention Centre

Accommodation

3.59. According to the Ministry of National Security, four (4) out of the five (5) dormitories in the Male Housing Unit and two (2) dormitories in the Female Housing Unit are operational. As at July 02, 2018, the total detainee capacity at IDC is one hundred and twenty (120) males and thirty-six (36) females. The male capacity is expected to increase by ten (10) detainees upon the completion of refurbishment works at Housing Unit E.

Figure 7: Female Dormitory at IDC



3.60. The average dimension of a dormitory is 30' x 40'. **Table 15** shows the breakdown of the capacity of each housing unit at the IDC.

Table 15
Capacity of Housing Units

Housing Unit	Average Number of Detainees	Capacity
Male Housing Unit		
Unit A	36	18 beds/36 mattresses (double occupancy). Thirteen (13) beds are new while five (5) are refurbished.
Unit B	40	20 beds/40 mattresses (double occupancy). The room can hold an average of twenty-five (25) beds.
Segregation Room	-	This room can hold an average of 7 beds/14 mattresses (double occupancy)
Unit C	18	This room can hold an average of 18 beds/36 mattresses (double occupancy)
Unit D	14	This room can hold an average of 7 beds/14 mattresses (double occupancy)
Unit E	12 (upon refurbishment)	This room can hold an average of 6 beds/12 mattresses (double occupancy)
Female Housing Unit		
Unit A	18	18 beds/36 mattresses (double occupancy).
Unit B	16	16 beds/32 mattresses (double occupancy).

Health and Safety

3.61. A Health and Safety Committee was established at the Immigration Division in compliance with Section 25E of the Occupational Health and Safety Act, Chap. 88:08. According to the Ministry of National Security, the IDC health and safety standards are maintained by networking with the Ministry of Health and other agencies such as the Trinidad and Tobago Fire Service.

3.62. The LWC submission indicated that the mattresses and sheets provided to the detainees were dirty which allowed for illnesses to easily spread amongst the detainees.

3.63. The IDC is equipped with air condition units and wall-mounted industrial fans which are routinely maintained and additional fans were installed during the recent refurbishment works. Details of IDC's compliance to Sections 31 to 45B of the

Occupational Safety and Health Act (OSHA), Chap. 88:08 are provided in **APPENDIX V**. The LWC indicated that although fans are provided it was insufficient to cool dormitories.

3.64. According to the Ministry of National Security, overcrowding challenges were addressed by utilising the Santa Rosa Facility of the Trinidad and Tobago Prisons Service (TTPrS) to detain persons.

3.65. The Immigration Division indicated that the Enforcement Unit, Immigration Division attempts to alleviate the IDC overcrowding by:

- i. Placing the detainee on an Order of Supervision in accordance with Section 17(1) of the Immigration Act, Chap. 18:01.
- ii. Repatriating detainees; and
- iii. Utilizing the Eastern Correctional Rehabilitation Centre (ECRC).

3.66. Other types of detainee complaints related to physical conditions and the Ministry of National Security's response are outlined in **Table 16**.

Table 16
Detainee Complaints related to Physical Conditions

No.	Detainee Complaint related to Physical Conditions	Ministry of National Security Response as at July 10, 2018
1.	Airing time ³² is one (1) hour only	All detainees are permitted two (2) hours for airing daily between the hours of 3:00 p.m. and 5:00 p.m. Airing may be cancelled or varied (in terms of the time period) on any particular day based on prevailing weather conditions or based on a situation in which airing may have the potential to compromise security and safety. Amendments to the existing airing schedule is made by the Detention Manager or his nominee.
2.	Detainee protests due to IDC overcrowding	There is no issue with respect to overcrowding. The total male detainee capacity is one hundred and ten (110) and total female detainee's capacity is thirty-six (36). As at July 2, 2018, there are one hundred and three (103) male detainees and thirty-six (36) female detainees.

³² Airing refers to the period when detainees are allowed access to the outdoor recreation areas (the Centre has separate areas for male and female detainees) for the purpose of engaging in productive exercise, sports and other recreational activities.

3.	Rodent and insect infestations	IDC is inspected by the Insect Vector Control Division (IVCD), Ministry of Health approximately every three (3) months.
4.	Insufficient detergent for washing and IDC clothing provided had mildew	The laundry staff monitors the use of the laundry supplies among the detainees and allocates appropriate amounts of detergent as necessary for the particular item/s being laundered.
5.	Denied request to see doctor	A detainee is not denied a request to see the doctor.

Laundry and Hygiene

3.67. The Ministry of National Security indicated that all detainees are provided with toiletries upon reception. The female detainees are provided with bathing soap and toilet paper every Friday and sanitary napkins, deodorant, tooth paste, tooth brushes and body lotion are provided as required. The male detainees are provided with toilet paper, soap, deodorant, tooth paste, tooth brushes and body lotion upon reception and on a weekly basis.

3.68. **Table 17** provides the number of operational shower installations and toilets at the IDC as at April 04, 2018.

Table 17
Number of Operational Showers and Toilets at the IDC

Units	Average No. of Detainees	Shower	Toilet	Wash Sink	Face Basin
Female Housing Unit A	18	4	4	4	-
Female Housing Unit B	16	4	4	4	-
Male Housing Unit A	36	3	5	6	-
Male Housing Unit B	40	5	3	5	-
Male Housing Unit C	18	1	2	-	1
Male Housing Unit D	14	1	1	-	-

Figure 8: Shower in the female dormitory at the IDC

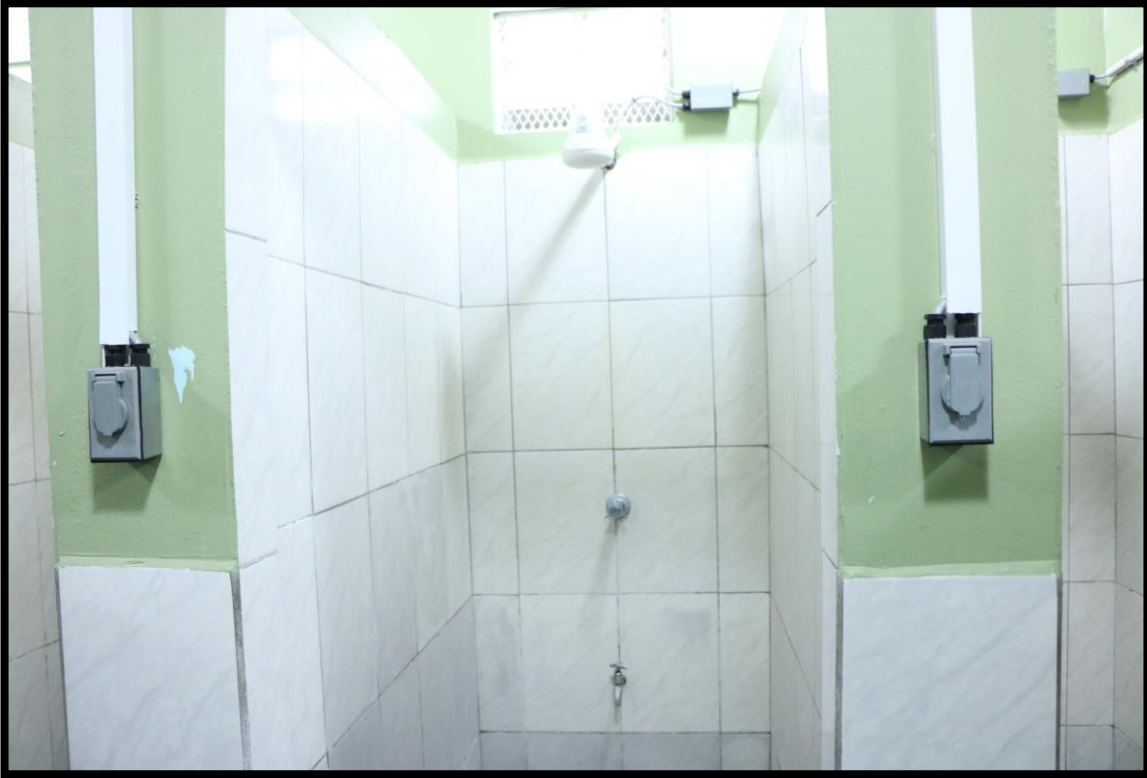


Figure 9: Toilet in the female dormitory at the IDC



3.69. The staff with responsibility for sanitary conditions consists of:-

- Janitorial staff - two (2) females and one (1) male; and
- Laundry Facility – currently there is one (1) heavy duty washer and one (1) heavy duty drier. The facility was expected to be outfitted with six (6) heavy duty washers and (6) heavy duty driers during April 9 to April 13, 2018.

3.70. The Detention Officer assigned to laundry, is responsible for the management of the laundry days and laundry supplies for the dormitory as well as the allocation of detergent for the detainees. Each male dormitory is allocated one (1) day per week between the hours of 8:00 a.m. and 5:00 p.m. to wash clothing.

3.71. During the site visit the Committee was informed by the detainees, that the allocation of detergent was insufficient to wash their clothes and there were instances of mildew found on the clothes provided to the detainees.

Figure 10: Washer and dryer in the female dormitory at IDC



4. FINDINGS AND RECOMMENDATIONS

Objective 1: To Determine the Treatment of Detainees at the Immigration Detention Centre

Regulation / Legislation for Treatment of Detainees

4.1. According to Section 40 of the Immigration Act, Chap. 18:01, a detainee *“is liable on summary conviction for a first offence to a fine of fifty thousand dollars and to imprisonment for three years, and on any subsequent conviction to a fine of one hundred thousand dollars and to imprisonment for five years.”* During the site visit the Committee was informed that fines levied to detainees for illegal entry varied.

4.2. Although LWC indicated that there were instances that a detainee was denied access to legal representation, the Committee noted that the Ministry of National Security had not received detainee complaints on the failure to receive legal representation upon request or failure to advise of the right to access legal representation. Ministry officials also advised that a detainee must ask for legal representation and is not automatically informed of a right to legal representation.

4.3. The Committee found that the detainees were not separated in accordance with Article 8 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment that states, *“Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from imprisoned persons.”*³³

4.4. The Committee was informed by the LWC that, according to the International Organization for Migration (IOM) Submission to the Working Group on Arbitrary

³³ UN Human Rights Office of the High Commissioner, “Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment”, <https://www.globaldetentionproject.org/wp-content/uploads/2016/06/The-Body-of-Principles-for-the-Protection-of-All-Persons-under-Any-Form-of-Detention-or-Imprisonment.pdf>

Detention, a maximum period of detention must be established by law and this may in no case be unlimited or of excessive length³⁴ and the European Union (EU) Directive 2008/115 (“Returns Directive”) recognizes that *each Member State should set a limited period for detention not exceeding six (6) months*³⁵. It should be noted that as at January 31, 2018, the longest period a detainee was at IDC was four (4) years and seven (7) months in **Table 11**.

4.5. Although the Ministry of National Security indicated compliance with the Immigration Detention Operational Orders in **APPENDIX IV**, the ESCTT submissions and site visit observations contradicted in the areas highlighted in **Table 18** below.

Table 18
Compliance to Immigration Detention Centre Operational Orders as Observed in Site Visit and ESCTT Submission

Immigration Detention Centre Operational Orders	ESCTT Submission dated March 23, 2018	Site Visit on June 01, 2018 - Observations
Telephones (Regulation 7)	Severe limitations to phone calls	Not observed by Committee
Personal Hygiene (Regulation 1)	Inadequate toiletries and sanitary napkins	Members were informed by detainees
Meals (Regulation 3)	Complaints about the quality of food	Detainees expressed this complaint to Committee
Laundry (Regulation 5)	Not stated in ESCTT submission	Detainees indicated that the detergent provided was inadequate to wash clothes

Medical Treatment of Detainees

4.6. Guideline 8 (48[vi]) of the UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention states, “*Appropriate medical treatment must be provided where needed, including psychological*

³⁴ International Organization for Migration (IOM) Submission to the Working Group on Arbitrary Detention, 2011. <https://www.ohchr.org/Documents/Issues/Detention/DraftBasicPrinciples/IOM3.pdf>

³⁵ European Union Directive 2008/115, <http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/EN%20-%20Returns%20Directive.pdf>

counselling. Detainees needing medical attention should be transferred to appropriate facilities or treated on site where such facilities exist. A medical and mental health examination should be offered to detainees as promptly as possible after arrival, and conducted by competent medical professionals. While in detention, detainees should receive periodic assessments of their physical and mental well-being³⁶...

4.7. During the site visit the Committee observed that there were two (2) pregnant female detainees. The Committee was informed by the two (2) pregnant female detainees that they were pregnant upon entry to Trinidad and for the three weeks spent at the IDC (as at June 1, 2018), they had not received pre-natal care, but also admitted that they did not request to see a doctor after they were admitted to the IDC.

Figure 11: Member of Committee interacting with female detainees at IDC



³⁶ UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, pg. 30. <https://www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html>

4.8. Although detainees entering the IDC are examined by the EMT on site, only if a detainee exhibits signs of a mental illness, a further mental health examination is conducted by the resident doctor. During the site visit the Committee was informed that over the past four (4) to six (6) years approximately four (4) detainees were identified by the resident doctor for treatment by a psychiatrist at a psychiatric unit or health institution.

Use of Force

4.9. The Committee noted that SRP training in police skills includes defence tactics on the Force Options Model and the use of force undertaken by the Detention Officers is guided by the TTPS Use of Force Policy in accordance with Departmental Order N.92/11 dated 18/05/2011 provided in **APPENDIX VII**.

4.10. The Committee noted that assistance from external agencies such as the TTPS can only be requested by the Detention Manager or his nominee and utilized to contain detainee disturbances or emergency situations which cannot be neutralized by the Detention Officers.

Length of Time in Detention

4.11. The most common breaches of the Immigration Act, Chap. 18:01 are usually expiration of landing certificate (overstaying) and working illegally and secondly, illegal entry. The Committee noted that of the 120 detainees as at April 06, 2018, 52 detainees were charged for illegal entry and 40 detainees were charged for expired landing certificates and working illegally.

4.12. Given the nature of most common breaches, the Committee noted that staffing is a determinant in the length of detention. Ministry of National Security officials link the significant improvement in the length of detention from six (6) to twelve (12) months to

two (2) to four (4) weeks to increased staff over the past two (2) years assigned to detainee matters, such as, reports, investigations, liaising with foreign missions and liaising with Interpol.

4.13. The Committee was informed that the primary challenges to repatriation which often prolongs the length of detention were the provision of incorrect nationality information, unwillingness to sign visa application forms and limited available travel routes that do not require overnighting. Other challenges were highlighted in items **3.36** and **3.37**.

4.14. The Committee noted that the Ministry of National Security continues to actively seek alternative routes for detained African nationals that do not require a visa for repatriation.

Staffing

4.15. The Committee was informed that the complement and category of staff assigned to the IDC is sufficient to ensure the efficient operations of the IDC based on the maximum detainee capacity of 120 males and 36 females and the ideal ratio of supervision of 1:8 (1 detainee officer: 8 detainees). However, based on the statistics provided the actual ratio of supervision at the IDC as at September 14, 2018 is 92³⁷:118³⁸.

4.16. Upon comparison of the current staff number to the ideal number of staff approved by Cabinet Minute No. 1842 dated July 03, 2014, a staff shortage at the IDC is noted in

4.17. Table 7.

³⁷ The number of detention officers (total number of Detention Officer I and Detention Officer II) in **Table 7**.

³⁸ The number of detainees as at September 14, 2018 in **item 3.1**. The number of detainees at the IDC changes daily, based on the detentions made by the TTPS or the Immigration Division, as such, the ratio will change correspondingly.

4.18. The Committee noted efforts to fill vacant contract positions via advertisements on June 29, 2018 placed in the newspapers and the Ministry of National Security's website.

4.19. The Committee also noted that the shortage of stenographers within the public service had affected the frequency of special inquiry hearings outlined in **APPENDIX X**.

Meals and Drinking Water for detainees

4.20. The Committee was informed by the detainees during the site visit that food provided by the IDC was insufficient, of poor quality and does not constitute a healthy diet. During the public hearing officials indicated that the daily cost for meals per detainee was \$80 per day and based on the written submissions the annual cost for meals per detainee for fiscal years³⁹ 2016 and 2017 were \$4,742.02 and \$7,136.72 respectfully.

4.21. During the IDC site visit the Committee was shown a carton of expired fruit juice dated 2016, alleged to have been provided by one of the IDC caterers in 2018. IDC officials stated that the caterer was informed of the incident and the juice returned and replaced.

4.22. The Committee noted that water was provided to detainees on an as-needed basis which is in accordance with Rule 22(2) of the United Nations Standard Minimum Rules for the Treatment of Prisoners. The rationale given for the restricted access to water was due to the previous destruction of the potable water dispenser by detainees and the restricted provision of hot water was as a result of a previous hot water incident involving a detainee and two (2) IDC Detention Officers.

³⁹ There were 1,106 (721 males and 385 females) detainees for fiscal year 2016 (October 1, 2015 to September 30, 2016) and were 778 (559 males and 219 females) detainees for fiscal year 2017 (October 1, 2016 to September 30, 2017) based on **Appendix VII**. Average per meal in fiscal 2016 was \$4,742.02 (5,244,676.47/1,106) and \$ 7136.72 (5,552,370/778) respectfully.

Complaints

4.23. Guideline 8 (48[xv]) of the UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention provides that, *“non-discriminatory complaints mechanism (or grievance procedure) needs to be in place, where complaints may be submitted either directly or confidentially to the detaining authority, as well as to an independent or oversight authority. Procedures for lodging complaints, including time limits and appeal procedures, should be displayed and made available to detainees in different languages...”*⁴⁰

4.24. The current internal complaint system available to detainees is to speak to a Detention Supervisor or Immigration Officer and upon the receipt of a complaint in writing the supervisor of the Detention Officer or the Detention Manager conducts an investigation. The timeframe for processing a written complaint submitted in English is 24 to 48 hours however, the timeframe for a complaint submitted in a foreign language is based on the availability of the foreign language interpreter. In the case of a use of force complaint, it is submitted to the Assistant Superintendent and to the Commissioner of Police via the SRP Adjutant.

4.25. However, the Committee noted the variance in the number and category of complaints submitted to the Immigration Division, Ministry of National Security in comparison to LWC/ESCTT in the areas of access to legal representation, access to asylum, medical treatment, excessive force, sanitation, food and drinking water, visits, physical abuse, discrimination, physical condition of the IDC facility as well as the complaints submitted to the Committee during the site visit in **Table 13** and **Table 14**.

⁴⁰ UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, pg31. <https://www.unhcr.org/publications/legal/505b10ee9/unhcr-detention-guidelines.html>

Language Barriers

4.26. According to Section 5(2)(g) of the Constitution of Trinidad and Tobago, a person has *the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness*. In addition, Article 14 (3) (a) and (f) of the International Covenant on Civil and Political Rights, *“In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;... (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court.”*

4.27. Although SRP training for behavioural sciences includes Conversational Spanish for Public Safety Officers, the Committee noted that there were only three (3) staff with language skills in **Table 9**, the absence of an in-house interpreter and the limited availability of external interpreters for non-English languages (*such as Spanish, Bulgarian, Hindi, French, Dutch, the various African continent languages, Vietnamese, Arabic, Danish, Chinese, Estonian, Filipino, Sinhala, Tamil, Bengali, Indonesian, Latvian*) is a determinant factor in duration of the special inquiry process in **APPENDIX X**, the repatriation process

Asylum Seekers and Refugees

4.28. The Committee was informed that there was an absence of national legislation pertaining for the treatment of asylum seekers and refugees in Trinidad and Tobago. Both the Ministry of National Security and LWC confirmed that there is a National Policy to Address Refugee and Asylum Matters in the Republic of Trinidad and Tobago, 2014 that includes Interim Standard Operating Procedures (SOPs) for the treatment of refugees and referral to LWC and UNHCR (See **APPENDIX XI**).

4.29. Despite the existence of these (SOPs), the Committee noted that there are a number of communication challenges between the MNS and LWC. For example, the LWC expressed that there were instances that detainees were not referred to the LWC and the

MNS indicated that at times that they were only aware a detainee was an asylum-seeker on the date of the special inquiry.

4.30. Although the MNS indicated that as at October 26, 2018 they were aware of twenty-seven (27) IDC detainees who had filed claims for asylum with UNHCR. **Figure 1** to **Figure 3** shows the number of asylum seekers in Trinidad and Tobago registered with the UNHCR. The Committee was informed by the LWC of the following trends with regard to asylum seekers for the period September 2017 to November 2018:

- i. Detention of approximately four hundred (400) registered asylum-seekers, which includes POCs who were detained prior to and subsequent to registration;
- ii. Detention of two hundred (200) POCs who were scheduled to register and POCs who are not yet registered but of whom LWC received reports via *inter alia* third parties that they are seeking asylum;
- iii. Detention of at least eighteen (18) POCs with health concerns such as pregnancy, kidney problems, hypertension and diabetes; and
- iv. Continued detention of at least two (2) recognized refugees at the IDC.

4.31. The Committee noted the following challenges of the LWC with respect to the IDC:

- i. Lack of access to the detainees at the IDC;
- ii. Lack of timely receipt of information with regards to special inquiries. At times, LWC received notification from third parties within twenty-four (24) hours or less of the special inquiry; and
- iii. Lack of communication between detainees and the organisations in care of their well-being.

4.32. The Committee noted the current use of the Minister's Permit in accordance with Section 10(1) of the Immigration Act, Chap. 18:01 as an interim measure for refugees until legislative measures are established to ensure temporary immigrant status for refugees in Trinidad and Tobago.

Recommendations

4.33. The Committee recommends that the Ministry of National Security collaborates with the Ministry of Attorney General and Legal Affairs to complete draft legislation on the treatment of persons of concern in Trinidad and Tobago in fiscal 2019.

4.34. Given the increase in detainees from Latin American countries in APPENDIX VIII, the Committee recommends that the IDC recruit an in-house Spanish interpreter to facilitate communication between detainees and officials by June 2019 in accordance with Article 14 (3) (f) of the International Covenant on Civil and Political Rights.

4.35. The Committee recommends that the Ministry of the Attorney General and Legal Affairs and the Ministry of National Security note the statistics at item 4.30 and recommendations of the LWC highlighted in APPENDIX IX.

4.36. In accordance with Guideline 8 (48[xv]) of the UNHCR Detention Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, the Committee recommends that the IDC establish an independent complaints system for the submission and investigation of detainee complaints in fiscal 2019.

4.37. Given the linkage between increased staffing and the decreased length of time in detention, the Committee recommends that the vacant contract positions be filled in fiscal 2019.

4.38. Given the influx in the number of Venezuelan detainees at the IDC from 2015 to 2018 in Table 8, the Committee recommends that the Ministry of National Security review other alternatives to detention and implement at least one additional alternative to detention in fiscal 2019.

Objective 2: To Examine the Physical Conditions at the Immigration Detention Centre

Accommodation

4.39. The Committee noted that since the establishment of the IDC in 2009 there has been the absence of an assessment by an independent body which is not in accordance with Article 29 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the United Nations General Assembly, which states, *“Places of detention shall be visited regularly by qualified and experienced persons appointed by and responsible to a competent authority distinct from the authority directly in charge of the administration of the place of detention or imprisonment.”*

4.40. The Committee found that there is a segregation unit at the IDC with an occupancy of 14 detainees which is used to house detainees who are attacked by the other detainees or detainees who contracted contagious illnesses.

4.41. The Committee noted that there was an absence of a housing classification policy based on the detainee’s criminal record, therefore, persons that have a violent criminal record are not separated from other detainees in dormitories.

4.42. During the site visit the Committee noted that the ventilation system in the male recreation area of the IDC was non-functional and the area was hot and humid. The Committee was informed by the Ministry of National Security that the ventilation system was non-functional because the Trinidad and Tobago Regiment (the Engineering Battalion, Cumuto Camp), who is assisting the IDC with the improvement works had not received the extractor fan which was subsequently delivered in July 2018.

Figure 12: Members of the Committee in the male recreation area interacting with male detainees at the IDC



Sanitation

4.43. During the site visit, the Committee noted complaints from detainees on rodent and insect infestation at the IDC due to the overgrown grassland surrounding the IDC, however, the Committee was informed that the Insect and Vector Control Division (IVCD), Ministry of Health conduct visits at the IDC every three months.

Health and Safety

4.44. During the site visit the Committee was informed that detainees were protesting the lack of updates regarding the length of their detention in the facility by sleeping on mattresses in the male recreation area at the IDC.

Figure 13: Male detainee in recreation area protesting at the IDC



4.45. During the IDC site visit, the Committee found inconsistencies in the airing time stated by detainees and the time indicated by IDC officials and was informed that all detainees were permitted two (2) hours airing daily however, the airing may be cancelled based on prevailing weather conditions or in a situation in which may compromise security and safety at the IDC.

Recommendations

4.46. The Committee recommends that the IDC commence renovations to ensure that it is in compliance with the applicable required working conditions under Sections 31 to 45B of the Occupational Health and Safety Act, Chap. 88:08 (APPENDIX V) in fiscal 2019.

4.47. The Committee recommends that the IDC engage objective and qualified professionals from an independent agency/organisation to conduct annual visits to ensure compliance with Article 29 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment in fiscal 2019.

4.48. In accordance with Article 10 (2) (a) of the International Covenant on Civil and Political Rights state that, “2.(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons,” the Committee recommends that the IDC establish a detainee classification policy in fiscal 2019 to provide for the effective separation of detainees with records of serious crimes.

4.49. The Committee recommends that the surrounding grasslands at the IDC be maintained on a monthly basis in order to mitigate rodent and insect infestations.

Your Committee respectfully submits this Report for the consideration of Parliament.

Sgd.

Dr. Nyan Gadsby Dolly, MP
Chairman

Sgd.

Mrs. Glenda Jennings-Smith, MP
Vice - Chairman

Sgd.

Mr. Esmond Forde, MP
Member

Sgd.

Mr. Kazim Hosein
Member

Sgd.

Mr. Rushton Paray, MP
Member

Sgd.

Mr. Dennis Moses
Member

Sgd.

Mr. Saddam Hosein
Member

Sgd.

Mrs. Hazel Thompson-Ahye
Member

February 8, 2019

APPENDIX I

MINUTES

**EXCERPT OF MINUTES OF THE 20TH MEETING OF THE
JOINT SELECT COMMITTEE ON HUMAN RIGHTS, EQUALITY AND DIVERSITY,
HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6 AND THE J. HAMILTON MAURICE ROOM,
MEZZANINE FLOOR, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, 1A
WRIGHTSON ROAD, PORT OF SPAIN
ON FRIDAY APRIL 06, 2018**

Present

Dr. Nyan Gadsby-Dolly, MP	Chairman
Mrs. Glenda Jennings-Smith, MP	Vice – Chairman
Mrs. Vidia Gayadeen-Gopeesingh, MP	Member
Mr. Esmond Forde	Member
Mr. Kazim Hosein	Member
Mr. Dennis Moses	Member
Mr. Saddam Hosein	Member
Dr. Dhanayshar Mahabir	Member

Secretariat

Ms. Candice Skerrette	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Mrs. Angelique Massiah	Assistant Secretary
Ms. Aaneesa Baksh	Graduate Research Assistant
Mrs. Delrene Liverpool-Young	Legal Officer I

Also Present were:

Officials from the Ministry of National Security

Mrs. Vashti Shrikrisen-Singh	Permanent Secretary (Ag.)
Mrs. Charmaine Ghandi- Andrews	Chief Immigration Officer (Ag.)
Mrs. Joanne Nelson-Joel	Asst. Chief Immigration Officer (Enforcement)
Mr. Dennison Aley	Immigration Officer IV, IDC
Mr. Curtis S. Belford	Deputy Director, Office of Law Enforcement Policy
Mr. Kent Downer	Senior Emergency Medical Technician
Ms. Dassie Bharath	Administrative Officer II

Public Hearing

7.1 The meeting reconvened at 10:35 a.m. in the J. Hamilton Maurice Room.

7.2 The Chairman welcomed and thanked the officials for attending. Introductions were made.

7.3 The Chairman invited opening statements from Mrs. Vashti Shrikrisen- Singh, Permanent Secretary (Ag.), Ministry of National Security.

Summary of Discussions

8.1 The following issues arose during discussions with the officials (*for further details, please see the Verbatim Notes*):

- There were 120 detainees at the IDC as at April 06, 2018 (85 males and 35 females);
- The most common breeches of the Immigration Act, Chap. 18:01 from current detainees at the IDC were:
 - Illegal entry into Trinidad and Tobago (52 detainees);
 - Overstayed visit/ working illegally/ expired travel documents (40 detainees);
 - Drug trafficking (12 detainees);
 - Trafficking counterfeit currency (1 detainee);
 - Tendering fraudulent documents; and
 - Other offences.
- IDC Detention is utilized as a last resort, after the Immigration Officers seek a relative or person who is willing to put up a security bond for detainee custody release under an Order of Supervision;
- There were discrepancies between the written submissions provided to the Committee by the Ministry of National Security and those provided by the NGOs including the Living Water Community and the Emancipation Support Committee. Some of the discrepancies identified were:
 - Lack of access to legal representation and the denial of legal representation for the detainees upon request;
 - Denial of detainee access to NGOs and the denial of NGO access to the detainees;
 - Detainees are not informed of their right to request asylum;
 - Sharing of bed spaces in housing units;
 - Lack of mattresses resulting in detainees sleeping on floors;
 - Leaks and insect infestations within the housing units at the IDC;
 - Housing of non-violent detainees with those detained for criminal/violent offences such as rape or murder;
 - Lack of an appropriate system for medical care for detainees with mental illnesses;
 - Lengthy stay at the IDC with no definite end date, for example a length stay will range from 15 days to up to 2 years;
 - Lack of a proper complaint system and a formal system for addressing language barriers at the IDC;
 - Accusations of verbal, physical, mental abuse and bullying by Detention Officers at IDC; and
 - Detainees' valuables being confiscated by officers at the IDC.

- The absence of visits by independent bodies to IDC to assess conditions and to conduct regular inspections in order to ensure compliance with international human rights best practice;
- The need to establish an independent complaints system to investigate complaints by the detainees;
- The need for the evaluation of all detainees at the IDC by a trained psychiatrist;
- During the last six years, approximately three (3) to four (4) detainees were referred to the St. Ann's Psychiatric Hospital for a mental evaluation;
- There are approximately nine (9) detainees who are currently awaiting deportation at the IDC after serving time in the prisons or paying fines for criminal offences;
- The absence of a housing classification system based on a classification of offences;
- The challenges faced by the IDC in order to repatriate detainees are:
 - The high cost of airfare to certain countries and the lack of state funding;
 - The lack of permission for repatriated detainees to '*pass through*' certain countries;
 - The language barriers and the lack of availability of interpreters of the detainees' languages;
 - The need for three escorts for each detainee with a criminal record and
 - The airline ticket and housing costs for the detainees and escorts; and
 - The identification procedure and acquisition of travel documents for detainees.
- Visitors who seek to extend their stay in Trinidad and Tobago must apply for the extension on their landing certificate prior to the expiration date;
- The need to recruit additional Detention Officers to fill the vacancies in the IDC and in order to achieve the best practice 1:8 ratio of Detention Officers to detainees;
- The decision to provide bottled water to the detainees on a needs basis based on the previous destruction of the potable water dispenser by the detainees;
- The restriction to the provision of hot water to the detainees as a result of a hot water attack on Detention Officers by detainees at the IDC;
- The increase in the food budget from \$2M in 2012/2013 to \$5.5M in 2016/2017 due to the increased catering prices from \$50 per day/detainee to \$80 per day/detainee;
- There are currently 25 persons from African countries at the IDC who are in need of travel documents in order to be repatriated;

- The recent finalization of a route through Turkey and the release of funds from the Ministry of National Security to enable the repatriation of detainees to African countries;
- The absence of a provision in the Immigration Act, Chap. 18:01 to allow detainees at the IDC to apply for immigration status if they unwilling to return to their country of origin;
- The absence of a legislation or policy to determine the treatment of persons who are refugees or registered as asylum seekers in Trinidad and Tobago;
- The intended use of the Minister's Permit by the Immigration Division as an interim measure for refugees until permanent measures can be established to ensure temporary immigrant status for refugees in Trinidad and Tobago;
- Detainees at the IDC are allowed the use of telephones at established time periods if they do not have access to a mobile phone; and
- The measures adopted by the Immigration Division to reduce the number of illegal Venezuelan immigrants entering Trinidad and Tobago.

Adjournment

10.1 The meeting adjourned at 12:48 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

April 30, 2018

**EXCERPT OF MINUTES OF THE 21ST MEETING OF THE
JOINT SELECT COMMITTEE ON HUMAN RIGHTS, EQUALITY AND DIVERSITY,
HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6 AND THE J. HAMILTON MAURICE
ROOM, MEZZANINE FLOOR, TOWER D, PORT OF SPAIN INTERNATIONAL WATERFRONT
CENTRE, 1A WRIGHTSON ROAD, PORT OF SPAIN
ON FRIDAY SEPTEMBER 14, 2018**

Present

Dr. Nyan Gadsby-Dolly, MP	Chairman
Mrs. Glenda Jennings-Smith, MP	Vice – Chairman
Mr. Kazim Hosein	Member
Mr. Dennis Moses	Member
Mr. Saddam Hosein	Member
Dr. Dhanayshar Mahabir	Member

Absent

Mr. Barry Padarath	Member (Excused)
Mr. Esmond Forde	Member (Excused)

Secretariat

Ms. Candice Skerrette	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Aaneesa Baksh	Graduate Research Assistant

Also Present were:

Officials from the Ministry of National Security

Mr. Vel Lewis	Permanent Secretary
Mrs. Charmaine Gandhi-Andrews	Chief Immigration Officer (Ag.)
Mr. Dennison Aley	Immigration Officer IV, IDC
Mr. Keith Renaud	Director, Office of Law Enforcement Policy
Mr. Kent Downer	Senior Emergency Medical Technician
Mr. Patrick Cunningham	Manager- Programme Management Unit

Living Water Community

Ms. Gina Maharaj	Legal Officer II
Ms. Allyson Weekes	Protection Advocate for Detention
Mr. Ganesh Rampersad	Legal Officer I

Public Hearing

9.1 The meeting reconvened at 10:40 a.m. in the J. Hamilton Maurice Room.

9.2 The Chairman welcomed and thanked the officials for attending. Introductions were made.

9.3 The Chairman invited opening statements from Mr. Vel Lewis, Permanent Secretary, Ministry of National Security and Ms. Gina Maharaj, Legal Officer II from the Living Water Community.

Summary of Discussions

10.1 The following issues arose during discussions with the officials (*for further details, please see the Verbatim Notes*):

- i. There were 118 detainees at the IDC as at September 14, 2018 and seventy-five percent of these detainees entered the country illegally;
- ii. There are approximately 7,000 asylum-seekers in Trinidad and Tobago according to the last report of the United Nations High Commissioner for Refugees (UNHCR);
- iii. There are approximately 19,000 Venezuelans that entered the country legally over the past year and seventeen percent have overstayed their time in the country;
- iv. There are currently 1,700 persons on Orders of Supervision;
- v. The length of time a detainee stays on an Order of Supervision depends on the length of time to acquire the detainee's repatriation documentation and the nature of the breach of the Immigration Act, Chap. 18:01. Orders of Supervision may last up to two (2) years;
- vi. There are refugees and asylum-seekers who were released on Orders of Supervision since there is an absence of legislation in Trinidad and Tobago which recognizes the refugees and asylum-seekers in Trinidad and Tobago;
- vii. There are IDC detainees who may be asylum-seekers and are still in confinement due to criminal records or the Immigration Division was unaware of their status as an asylum-seeker;
- viii. There are nineteen (19) Special Inquiry Officers at the Immigration Division who are charged with the responsibility of the 1,700 persons on Orders of Supervision;
- ix. There are five (5) Special Inquiry Hearings held per day and at each Hearing a stenographer is required. The lack of stenographers in the public service to support the Special Inquiry Hearing for detainees has contributed towards delays in special inquiry process;
- x. The cost of the security bond for the Order of Supervision varies according the cost of the airline tickets to repatriate the detainee to the country of origin;

- xi. The security bonds provided under the Order for Supervision can be refunded as long as the person produces the ticket bought and the persons under the Order of Supervision has left the country. The bond will not be refunded if the persons under the Order of Supervision has breached the Order;
- xii. Any individual or organisation can post a security bond on behalf of a detainee, once proof of detainee support can be provided and there were no problems with the detention history of the detainee (such as criminal offences);
- xiii. The protest action in May 2018 at the IDC was due to the lack of information to detainees on their status and the length of detention;
- xiv. The detainees at the IDC who are married and/or have children in Trinidad are given special consideration for release on an Order of Supervision once proof of fatherhood and the ability to support the detainee is provided;
- xv. The unwillingness of some detainees to sign visa documents or provide accurate personal identification information contributes to delays with the repatriation process;
- xvi. The Living Water Community (LWC) indicated the lack of access to detainees at the IDC who have sought asylum or refugee status from the LWC via a third party; and
- xvii. Due to security risks, the visits of LWC or UNHCR are facilitated at a separate location from the IDC.

Adjournment

12.1 The meeting adjourned at 12:28 p.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

October 12, 2018

APPENDIX II

VERBATIM NOTES

VERBATIM NOTES OF THE TWENTIETH MEETING OF THE JOINT SELECT COMMITTEE ON HUMAN RIGHTS, EQUALITY AND DIVERSITY HELD IN THE HAMILTON MAURICE ROOM (MEZZANINE FLOOR) (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, APRIL 06, 2018 AT 10.35 A.M.

PRESENT

Dr. Nyan Gadsby-Dolly	Chairman
Mrs. Glenda Jennings-Smith	Vice-Chairman
Mr. Dennis Moses	Member
Mrs. Vidia Gayadeen-Gopeesingh	Member
Mr. Esmond Forde	Member
Mr. Kazim Hosein	Member
Mr. Saddam Hosein	Member
Dr. Dhanayshar Mahabir	Member
Ms. Candice Skerrette	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Aaneesa Baksh	Graduate Research Assistant

MINISTRY OF NATIONAL SECURITY

Ms. Vashti Shrikrisen Singh	Permanent Secretary (Ag.)
Mrs. Charmaine Gandhi-Andrews	Chief immigration Officer (Ag.)
Mrs. Joanne Nelson-Joel	Assistant Chief Immigration Officer (Enforcement)
Mr. Dennison Aley	Immigration Officer IV, IDC
Mr. Curtis S. Belford	Deputy Director, OLEP
Mr. Kent Downer	Senior Emergency Medical Technician
Ms. Dassie Bharath	Administrative Officer II

Madam Chairman: Good morning everyone. It is my pleasure to welcome everyone here as we convene the Twentieth Meeting of the Joint Select Committee on Human Rights, Equality and Diversity. This public hearing is being broadcast on Parliament Channel 11, Parliament radio 105.5 FM and the Parliament's YouTube's channel *ParlView*.

I would like to welcome the officials of the Immigration Division and from the Ministry of National Security who are here with us this morning.

My name is Nyan Gadsby-Dolly and I am the Chairman of the Joint Select Committee on Human Rights, Equality and Diversity. And at this point I would like to invite members of the Committee to introduce themselves starting on my left.

[Introductions made]

Madam Chairman: Thank you so much. And at this time could we have the officials who are here with us introduce themselves starting with the Permanent Secretary, Acting, in the Ministry of National Security.

[Introductions made]

Madam Chairman: Thank you so much for being here with us this morning. The Immigration Detention Centre was envisaged as functioning in accordance with international human rights instruments and treaties with universal respect for human dignity and fundamental rights and freedoms. The centre was created pursuant to the State's human rights obligation as a member of the international community committed to the observance of the fundamental human rights of individuals of every creed, race, religion, cultural belief or nationality.

The US Country Reports for Trinidad and Tobago 2012 to 2016 on human rights in reference to the Immigration Detention Centre states: The average length of detention was one week to two months depending on the speed with which the Government secured deportation. In some cases, detention lasted more than four years. The men's section was overcrowded; prisoner abuse and medical neglect were problems.

In 2013, at the Immigration Detention Centre a Guyanese national committed suicide, and in 2017, various media reports emerged where unsavoury conditions at the Immigration Detention Centre were highlighted. One quote stated:

Prolonged indefinite detention represents the most fundamental violation of the human rights of detainees at the Immigration Detention Centre. Indefinite detention is contrary to many human rights conventions and is widely recognized as a form of torture.

In light of these national concerns, the Committee's objectives this morning are as follows: to determine the treatment of detainees at the Immigration Detention Centre in Aripo—we had Santa Rosa, but we have learnt that that has now been closed off—and to examine the physical conditions at the Immigration Detention Centre in Aripo.

We were happy to have received written submissions, four written submissions from the Ministry of National Security Immigration Division, the Office of the Ombudsman of Trinidad and Tobago, the Living Water Community, and the Emancipation Support Committee.

During the hearing, viewers and listeners can send the Committee questions related to today's topic via email at parl101@ttparliament.org, that is parl101@ttparliament.org, on Facebook [@ttparliament](https://www.facebook.com/ttparliament), and on Twitter [@ttparliament](https://twitter.com/ttparliament).

I would now like to invite brief opening comments from Mrs. Singh the Permanent Secretary, Acting, at the Ministry of National Security.

Ms. Singh: Good morning, Madam Chairman, and members of the Committee. The Ministry of National Security appreciates the opportunity to contribute to the Joint Select Committee on Human Rights, Equality and Diversity on the enquiry into the treatment of detainees at the Immigration Detention Centre in Aripo.

The Ministry of National Security is the arm of Government that has the primary responsibility for ensuring and maintaining the security of our twin-island State. The Ministry's three-pronged operational mandate includes: maintenance of law and order; public safety and defence against aggression; management of disaster preparedness and relief; and monitoring and controlling flow of persons into and out of the country.

Given its mandate to secure the nation, the Ministry of National Security is focused on developing solutions to the multi-dimensional security challenges that afflict our society, and the Ministry is cognizant of the need to ensure that all persons are treated humanely and fairly, and that due process is followed.

The detention centre was created in 2009 in response to the country's human rights obligation as a member of the international community committed to the observance of the fundamental human rights of every individual. At that time it agreed that the facility would be established at the Aripo remand house to accommodate foreign nationals found in breach of our immigration laws.

The configuration is in keeping with international best practices as required by the United Nations International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Universal Declaration of Human Rights.

The Ministry of National Security continues to strive to ensure that the processes and procedures for detention and repatriation stand up to legal scrutiny and are in keeping with current best practices. As such, given the focus, as well as the objectives of the enquiry, we are pleased to be here and to clarify any matters you may have in this public forum. Thank you.

Madam Chairman: Thank you so much. At this time we would like to start the questioning, reminding both Committee members and officials that any questions that you may have can be directed through the Chair, and of course, our viewers and listeners have been apprised of how they can send their questions or comments to the Committee for elucidation.

I would like to start the questioning by drawing to the attention of immigration officials the variance between the reports that concern the conditions at the detention centre coming from the immigration, as well as those coming from the other submissions that we would have received. So we had received reports from the Living Water Community, as well as the Emancipation Support Committee. And I want to just put on the record some of the concerns that they would have raised that are at variance with what would have been submitted by the immigration department, and then ask a question based on that.

So, some of the concerns that were raised, the main concerns, were: the 15-day to two-year stay at the centre which has no definite end; the detainees not being apprised of their right to legal representation; legal representation being denied when requested; persons being denied access to NGOs which may afford them assistance; the NGOs themselves when approaching the IDC being denied access to the detainees; detainees not being advised of their right to seek asylum; no process in place for complaints by detainees; no system to deal with language barriers; lack of medical care and treatment for detainees; asylum seekers being discouraged from seeking support; physical, verbal and psychological abuse being the norm; valuables of detainees confiscated, bullying by officers; sharing of bed space; detainees having to sleep on the floor without mattresses; leaks within the dormitories; insect infestation within the dormitories; nonviolent detainees being housed with those who are charged with violent offences such as rape and murder.

So these are some of the complaints that have come forward from the submissions we have received, and this is in direct variation with what was received from the Immigration Detention Centre based on the Immigration Division's submission.

One of the recommendations that came forward as well would have been an independent person or body being able to visit and to assess the truth of the matter with respect to what the conditions are at the centre. So what I want to ask is: Have there been any independent visits or assessments done on the Immigration Detention Centre ever? Have there ever been any independent assessments, for example, by a human rights body or some civil organization that would be able to verify the truth of the matter between these two very different reports coming out of what happens at the Immigration Detention Centre?

Mr. Belford: Good morning, again, Chair. As far as we are aware there have not been any independent assessments done. While there have been visits by the Emancipation Support Committee, the Living Water Community, we are not aware that those visits led to any independent assessments. Those visits would have been made to see specific detainees, and I am aware personally that the Emancipation Support Committee and the Living Water Community would normally request visits through the Ministry of National Security, and those visits would be accommodated outside of the normal visiting hours; once the request is made they are facilitated. As to whether they would have visited the housing units, this may have occurred on one or more occasions, but normally they would conduct the visit in the visit area or in an office in the detention centre.

Madam Chairman: Is it best practice in detention centres such as this one, because you have certainly seen it with respect to the holding cells, and so on, that there is an international inspection of these areas on a regular basis so as to ensure that they comply with the human rights treaties that we are signed on to?

Mr. Belford: Okay. The Immigration Detention Centre does not have cells, it has housing units like a dormitory-style set-up. Yes, it would be best practice. The issue here would be determining what is considered regular visits for an external independent agency.

The other issue concerns security. Most independent agencies and/or individuals would be unwilling to go into the housing units, and that is the other issue. In terms of taking persons there, special arrangements would have to be made to perhaps remove the detainees, put them in an outdoor recreation area to get civilians to go into the housing units.

Madam Chairman: Certainly though, if this is the best practice and this has been operating since 2009, this is nine years later and there have been no visits by any independent body which is something that is being acknowledged as a best practice. So why have there not been any visits?—because certainly that can be arranged. It happens in other jurisdictions as regularly as once per year where human rights associations are allowed to come in and to make those determinations and to actually see what is happening. Why has that not been arranged for the Immigration Detention Centre in Trinidad and Tobago?

Mr. Belford: Well I as noted previously, Madam Chair, there have been visits based on requests made by the Living

Water Community and the Emancipation Support Committee.

Madam Chairman: Not to interject, but I am sorry. But what I am speaking about is the Immigration Detention Centre itself allowing itself to be visited in this way so as to determine whether or not and for the public to understand that they are being compliant with the international standards, because this is where we are having a complete dissonance with respect to what is being said by the Immigration Division, as well as what is being said by civil organizations. There must be an independent assessment that the Immigration Detention Centre itself seeks to be able to put these fears to rest, and that is the best practice, but that has not been happening. So is there an intention for that to be put into the programme at the Immigration Detention Centre?

Mr. Belford: Yes, Madam Chair, you are quite correct. Again, the Immigration Division, the Ministry of National Security has not initiated any visits by such entities. The visits are facilitated based on requests, but based, again, on international best practices and what you just said, certainly the time is ripe for us now to initiate such visits in going forward, rather than waiting on a request from the particular entity.

Madam Chairman: Okay. Thank you. Sen. Mahabir.

Dr. Mahabir: Thank you, Madam Chair. It is a follow-up to a question that you posed and that is, given that there were reports of bullying of detainees by their supervising officers, I just need to ask, whether the Ministry of National Security has a special training programme so that the officers who are supervising the detainees are specially trained to deal with this particular peculiar category of inmate? Thank you.

Mr. Belford: The officers who are supervising the detainees are all members of the Special Reserve Police engaged on contract. They are Special Reserve Police Officers because, according to the Immigration Act, section 15, only immigration officers or police officers have the legal responsibility to arrest and detain prohibited immigrants for enquiry or deportation. As part of their 12-week 424-hour contact training programme they are exposed to training in ethics and integrity, the use of force and a number of behavioural sciences including emotional intelligence, psychology, sociology, communication skills and so on.

Specifically, as regards the use of force, they are trained to adopt the use of force on the basis of minimization, use the minimum amount of force necessary to get the desired effect; equivalence, force must equate force, the amount of force used must be similar to the amount of force encountered, as well as reasonableness. The force should be reasonable being that any normal person placed in a similar situation would have done the same thing.

In addition to that, the use of force is in keeping with the police service use of force guidelines which is based on a use of force continuum, meaning that they could start from their mere presence, move on to verbalization, soft-impact weapons like a baton, deadly force and so on, but on a continuum—it could go around.

In addition to that, if a detainee has a complaint, it is the responsibility of the detention manager, who is an assistant superintendent of police, to conduct an investigation based on the claim.

Dr. Mahabir: Yes. I just need clarification, so therefore, the officers are police officers, by and large—

Mr. Belford: Yes.

Dr. Mahabir:—and not prison officers?

Mr. Belford: No.

Dr. Mahabir: Thank you very much. Since Madam Chair has indulged me, I would like to ask a second question. And the second question is in relation to a submission that we had received with respect to the suicide of one of the detainees, a female detainee. And I would like to ask anyone—I see a medical technician officer here—whether the detainees are afforded mental evaluations when they are admitted to the centre, and whether someone trained in psychology or someone trained in that field, similar cognate field is required to evaluate the detainee with respect to estimating the risks of this individual inflicting harm on himself or simply to ensure that there is some separation between the detainee who is experiencing a bona fide mental health issue, and to ensure that other detainees do not develop these mental health problems within the detention centre?

Mr. Downer: Thank you, Sir. The infirmary is staffed by four trained EMTs. On arrival of a detainee at the institution, all detainees are screened by the EMT who is on duty.

Dr. Mahabir: EMT, I do not understand.

Mr. Downer: Emergency technician on duty. If any tendency of mental illness is identified, that detainee is referred to be seen by a medical doctor who visits the institution once weekly. When that detainee is brought before the medical doctor, the doctor, if he determines that the detainee requires assistance with respect to a psychological or mental issue, that detainee would be referred to the hospital to see a psychiatrist and an appointment would be made by myself for that detainee. And at some time subsequently, the detainee would be escorted to the institution to receive that mental assistance and guidance.

Dr. Mahabir: Could you give us an estimate or give me an estimate of how many detainees were granted such a privilege of being mentally evaluated over the last, like 10 years or so?

Mr. Downer: It has not been many detainees. It may have been approximately maybe three or four if so many over the last four or five years or six years. What has happened, the detainees when they are seen by the doctor and referred to a psychiatric clinic, they would be seen by the psychiatrist at the institution. Firstly, they will go to the institution that is closest to the detention centre which is the Arima Health Facility and would be seen at the psychiatric unit by the psychiatrist. If there is need for further evaluation and treatment, a recommendation could be made and the detainee may be referred to the St. Ann's institution.

Dr. Mahabir: A follow-up, Madam Chair. Do you think, given that only about four or five persons were evaluated as referred by the medical doctor, there was one suicide—you see, this is of concern to me. I imagine in a regular prison environment I will not be surprised to see a suicide there. It might be shocking, but I would not be surprised. But in a detention centre for someone who has violated the immigration laws of Trinidad and Tobago, for us to have a suicide signals to me that maybe there may be a lot of individuals who are experiencing depression, anxiety, the various conditions which require mental evaluation. Do you think as a medical technician that it may be a good idea if a trained psychiatrist or psychologist were to evaluate all of your detainees to determine which one of them may be at risk and which ones may not be at risk? It may be that only four were caught given the system and the procedure you have, and that perhaps there are many more in there suffering this kind of ailment? But do you think it would be a good idea for everyone to be evaluated?

Mr. Downer: Probably, but that decision is usually made by the—I am not an expert in the field. I am a professional as an EMT. The doctor who is the expert, he is the one that could likely make a decision like that.

Madam Chairman: Just a very quick question to follow up on your point. If the EMT—that is the Emergency Medical Technician?

Mr. Downer: Yes.

Madam Chairman: And that is the one who evaluates all detainees when they come in?

Mr. Downer: Yes, Ma'am.

Madam Chairman: And if that person detects that there may be something wrong, then it is referred for the medical doctor's visit?

Mr. Downer: Yes.

Madam Chairman: In the period of that time between the detection of something that may be wrong and the visit, is that detainee kept with everyone else? Is there a separation of them at all?

Mr. Downer: On some occasions, if the detainee shows signs of being violent or not taking instructions, he could be separated in a separate unit until he is seen by the doctor who visits on a weekly basis, sometimes twice weekly. So it would not be very long—

Madam Chairman: So, once something is picked up, there is mental instability, if there is a suspicion, that person is kept separate if they are seen to be violent?

Mr. Downer: Yes, Ma'am. And in some cases the doctor may be contacted because the doctor is on call, he may be contacted at that point in time and he may recommend some type of medication or treatment, he may even recommend hospitalization.

Madam Chairman: So are there detainees at the IDC that have been charged with criminal offences?

Mr. Downer: I cannot say, Ma'am. I am not given that information.

Madam Chairman: Oh sorry. It may be a question for someone else to answer.

Mrs. Gandhi-Andrews: Yes. Madam Chair, there are some who would have served their time at the nation's prisons, and they come to the Immigration Division for deportation, and those persons are kept for the shortest possible time prior to deportation. So there are some, as it is currently there are probably nine of them currently at the detention centre who would have been charged for possession of narcotics.

Mr. Belford: Madam Chair, if I may?

Madam Chairman: Sorry. Let me just clarify there. But they come after they have served their sentence. So they are not criminals at that point?

Mrs. Gandhi-Andrews: Well, they might be considered criminals having—

Madam Chairman: Not having a criminal record.

Mrs. Gandhi-Andrews:—criminal record—

Madam Chairman: But they are not criminals.

Mrs. Gandhi-Andrews:—but they would have served their time or paid their fine prior coming to the detention centre for deportation.

Madam Chairman: And are they kept in circulation with everyone else or are they kept separately?

Mrs. Gandhi-Andrews: They are kept in circulation with everyone else, because as Mr. Belford would have noted, it is a housing unit, there are not separate cells within the facility. There are five in the male area, there are five separate housing units, and on the female side there are two housing units on the female side.

11.05 a.m.

Madam Chairman: So, if someone is to be kept separately, as would have been discussed before, how are they separated?

Mr. Belford: So, Madam Chairman, there is an administrative segregation unit in the male housing unit where we have seven independent cells. That is where those persons are kept. It is not generally used to house detainees. It is used for administrative segregation purposes. If somebody develops some illness that we are unaware of, say, scabies, chicken pox, if somebody may have homosexual tendencies and they are being attacked by other members, other detainees, if somebody has breached some disciplinary guideline, and as the EMT said, if somebody displays signs of mental illness—I should note as well that we have had one case where a detainee feigned mental illness by claiming that he wanted to commit suicide and so on, the doctor was contacted, and that detainee was taken to the St. Ann's Psychiatric Hospital, and escaped the said day from the St. Ann's Psychiatric Hospital. So, we also have cases where detainees may feign mental illness to get out of the facility.

Madam Chairman: If a detainee is in there for—or has been released from prison for a violent crime, are they kept in normal circulation as well?

Mr. Belford: Yes, they are. As we noted earlier, we do have housing units. It is dormitory style with double-deckers. We do not now have the facility to effectively classify detainees based on why they are there, and separate them accordingly.

Madam Chairman: Do you think that this is the best practice?

Mr. Belford: No, it is not. And certainly that is something that we are looking at, but based on what we have now, we are unable to do that.

Madam Chairman: But, this a refurbished immigration detention centre house?

Mr. Belford: Yes. It is the same facility that has been refurbished.

Madam Chairman: Were there cells before?

Mr. Belford: Housing units.

Madam Chairman: There were always dormitory housing units?

Mr. Belford: Yes. Yes.

Madam Chairman: So, in the refurbishment, it was not taken into consideration at this point that that kind of separation would be the best?

Mr. Belford: Yes. Detainee classification was taken into consideration. And there is the Housing Unit E that could house 12 detainees. That is still being refurbished, and once that is done that is where we intend to put persons like that who are released from prison pending deportation. But that refurbishment is still taking place.

Madam Chairman: So therefore the assertion that people who have been charged and released from prison for violent crimes are in normal and circulation/rotation with people who are just there for transgressing immigration rules?

Mr. Belford: That happened in the past. We are working assiduously to streamline and adopt our detainee classification policy.

Madam Chairman: Okay. So, on this same issue, so we will have Mrs. Gayadeen-Gopeesingh and then we would have Sen. Hosein.

Mrs. Gayadeen-Gopeesingh: Just for clarification, I recall two Estonians had some problems, one matter was being tried before, I believe, the First Instant Court, and the other was detained. The judge was very annoyed about one being detained so long. So, can you clarify what really went wrong with that particular Estonian?

Mrs. Gandhi-Andrews: Okay. As far as our records show, we had one Estonian national who was convicted for drug offences, and we attempted repatriation a couple times for that particular individual, which failed, because of the routes that we were trying to take the person through. And that is one of the major challenges for the Immigration Division in repatriating any person. There were two Bulgarian nationals—Bulgarian?

Mrs. Nelson-Joel: Yes.

Mrs. Gandhi-Andrews: Yes, there were two Bulgarian nationals who were before the courts for various offences and—

Mrs. Nelson-Joel: Skimming.

Mrs. Gandhi-Andrews: Yes, they were there for skimming and other such offences, and they were repatriated. As soon as we could make arrangements for them to be repatriated, verify their documents and get tickets for them to leave. Part of the challenge with the Bulgarians, of course, was the language barrier, and the only person who spoke that language had to come from St. Lucia. Outside of that one, there was a Latvian national who was also convicted for narcotics, and that person was repatriated. There is one to be repatriated now?

Mr. Belford: They are Estonians.

Mrs. Gandhi-Andrews: Okay. So, there are a number of challenges to repatriation with the individuals. And it stems from either not having travel documents, what route we could take them through, because some countries do not want us to pass them through a particular country. And for criminal offences we must escort them, and there must be three escorts.

Mr. Belford: For one.

Mrs. Gandhi-Andrews: For one person.

Mrs. Gayadeen-Gopeesingh: Okay. To get the interpreter from St. Lucia is really a stone's throw away, so how long does it take to get that person from St. Lucia to do the interpretation for the Bulgarian? And how long those persons remain at the detention centre?

Mrs. Gandhi-Andrews: The interpreter, of course we depend on their schedule. So it is whenever they can fly into the country, and when we can have the funds available to pay for them to come to Trinidad and Tobago. In the case of the Bulgarians, they simply wanted to go home at the end of the day, and they did not appeal any deportation orders, and they indicated that they simply wanted to go home, and arrangements were made for them to go home. The interpreter at the time—which was, I do not remember the person's name, because it was the same interpreter that the court had used—would not have been available for at least two months. So, we are dependent on the schedule of interpreters. Like I said, there are very few interpreters for a particular language, then, of course, we have to wait until whenever they are available before we can proceed with anything.

Mrs. Gayadeen-Gopeesingh: So, what is the estimated time they remained detained? How long?

Mrs. Gandhi-Andrews: I am told that they stayed at the detention centre for three weeks.

Mr. K. Hosein: Thank you very much, Madam Chairman. All detainees admitted to the Immigration Detention Centre have fundamental rights to humane treatment. According to a chart I saw here, 537 persons were trained. Can you advise whether staff at the Immigration Division undergoes any such training in humane treatment? And if so, are there any active training plans to ensure that all persons are adequately trained and given refresher courses to offer best quality practice?

Mrs. Gandhi-Andrews: The answer to that would be, yes. In terms of the management of the detention centre, there are two things: There are the detention officers who are there to detain or to guard and manage the detainees. The Immigration Officers are there to ensure that they are informed about the matter, the status of their case, when they would be repatriated, and to have that type of liaison. During the training for all officers, they are trained in different facets of the law, international best practices. The enforcement unit was also trained. The enforcement unit and the officers who are assigned to the detention centre were trained in the defensive tactics, and how they should treat with detainees.

Mr. Belford: I should add Minister that in terms of the detention officers who are special reserve police officers, we have also introduced in the curriculum, cultural sensitivity, and conversational Spanish for public safety officers. So that now forms part of their 424 hour induction training programme.

Madam Chairman: But, just before you follow up. So you are saying that the police officers who are assigned to the IDC have special training?

Mr. Belford: Yes Ma'am.

Dr. Mahabir: It is a follow up to Sen. Kazim Hosein's question, and that is, they are trained. My question is, where? Are they trained at the Police Academy? Can I see a copy of the curriculum, the courses, the content, and so on? I am just curious as to the special reserve officers, do they undergo a screening process to ensure that they are amenable to treating with this type of detainee as opposed to say someone in a prison? It is a little bit vague to me, and I would like to know about the quality of the training that they received?

Mr. Belford: Okay. So, in terms of the screening process, from the application process they do an entrance examination. Following the entrance examination they are subjected to interviews. Following the interviews we move to the background, a character investigation. Following that—and it is based on success—they move to the medical evaluation. From the medical, they have a psychological evaluation, and from the psychological evaluation they move to the induction training programme. The 12-week induction training programme. And again, they are required to complete as special reserve police officers in the police service complete, but because they are then assigned to the Immigration Detention Centre, that is where we move in now into cultural sensitivity, conversational Spanish, defensive tactics, and these other issues that are specific to the job they are being engaged to perform.

Dr. Mahabir: Okay. Are they on contract or are they full-time employees?

Mr. Belford: They are on contract.

Dr. Mahabir: What is the length of the contract?

Mr. Belford: Three years.

Dr. Mahabir: Oh, they are on three years. Thank you.

Mr. Belford: Yes.

Madam Chairman: Just to clarify, 12 weeks, how many hours is the training?

Mr. Belford: Four hundred and twenty four contact hours. That is the induction part, eh Ma'am. Madam Chair?

Madam Chairman: Yes, certainly.

Mr. Belford: The 424 contact hours is the induction training.

Madam Chairman: Yes.

Mr. Belford: From that they move on to developmental training.

Madam Chairman: Okay.

Mr. Belford: The 424 contact hours is a requirement to be a special reserve police constable. And as I said, because they move on now to the Immigration Detention Centre they complete further training for that specific function.

Madam Chairman: How much is that?

Mr. Belford: That would be 24 contact hours to start. But then developmental training is something that is ongoing.

Madam Chairman: So throughout their three year contract they receive training?

Mr. Belford: Exactly. But we cannot take everybody at the same time, so we do it in stages, because their services are required, of course.

Madam Chairman: Okay.

Mr. Forde: Thanks, Madam Chair. To the Chief Immigration Officer, Acting. I would like to know clearly, how does one become a detainee in Trinidad and Tobago?

Mrs. Gandhi-Andrews: Persons who are found to be in breach of the Immigration Act, either they have entered illegally, they have overstayed their time, they might have committed criminal offences which have placed them within the prohibited classes. Once they come to the attention of the Immigration Division they are interviewed. The officers at the Enforcement Unit would do an assessment of them to see whether or not we can either release them on what is called "an order of supervision". They would like look at where they are living, who they might be staying with, whether they have any family members or any friends who are willing to support them.

Detaining anybody is a last resort at the detention centre. Because the centre could only hold so many people. So that, once they are found to have breached the Immigration Act, anybody could be detained. Putting them at the detention centre, like I said, is a last resort, depending on the circumstances. Clearly, if they have committed some criminal offence, then they will be detained depending repatriation. If they may have entered the country illegally, and they have been prosecuted, they will end up at the detention centre pending their repatriation. And once they can be identified—because a lot the persons who come to us have no identity documents. So that we have to verify nationality, we have to verify the identity before we can even move forward with some of our processes.

We have a process—I mentioned—an order of supervision, which is akin to bail, that the Chief Immigration Officer can release anyone on an order of supervision with certain conditions. And currently we have 455 persons on orders of supervision who are all in breach of the Immigration Act, and we have at this point in time, we only have 85 males and 35 females at the detention centre as at this morning. So, that is pretty much how they may become a detainee. The fact is they are in breach of the Immigration Act, and we would do our assessment depending on what it is. Some of them might have overstayed, have been found working without a work permit. If they can be identified, and if there is somebody willing to support them, house them, because the conditions for release would be that they have some place of abode, someone that we can contact, somebody who is willing to put what is called "a security bond", which would assist in any repatriation, and those persons would be released. So at any given time, there are actually more persons out on an order of supervision than at the detention centre.

Mr. Forde: Would it be wrong of me to suggest that our Immigration department are creating detainees?

Mrs. Gandhi-Andrews: When you say are creating detainees, I am not sure. Because, the law empowers us to arrest

and detain pending an enquiry. And therefore, depending on the circumstance, and more often than not the persons who we have at the detention centre, either, like I said, fall squarely in the prohibited class or we are unable to identify the individual. If we are able to identify the individual, and depending on the other circumstances they will be released.

Mr. Forde: All right. In terms of “the red tape”, the bureaucracy that sometimes may take place, and if may probably want to say that having one or two instances of individuals coming to me my Member of Parliament office with regard to saying that they have submitted all the necessary documentations, there is a delay, they go to Richmond Street, they go to Frederick Street, they go here, the go there, and there is some sort of delay, file cannot be found, it is at this department, they cannot go to this particular department, in terms of the bureaucracy that may entail, as the Immigration Officer, again, would it be wrong of me to suggest that there is something that is not adding up in some instances?

Mrs. Gandhi-Andrews: I think, through you, Chair, I believe that we are mixing a lot of things here, and from what you are referring to, and the correspondence that I would have seen from you, relate to those persons who may have applied for permanent resident, and that is something completely separate and apart. And, there is a process to deal with someone who has applied for permanent residence, and the role of the Immigration Division in that respect is to interview and submit a report to the Permanent Secretary. More often than not, persons who have applied for permanent residence, similarly need to go to the Immigration Division to ensure that their landing status is kept current, in that they must go and seek an extension of stay. So, persons who do not go and seek an extension of stay can end of, of course, in breach. They are now illegally in the country, because they have no permission to stay, and those persons are the ones who invariably end up on an order of supervision.

Mr. Forde: No, but then the time line, madam Immigration Officer, between the person getting that document, there is a presumed run around that takes place, and whether it is that the delay is happening in order to make a certain result. Somehow or the other there is a disparity between, you know, the communication that comes out of the Immigration Department, and I am trying to see if I can get some clarity with regard to it.

Madam Chairman: If I may assist, the member is asking, does the delay in processing the extension of stay result in many people being now illegal in the country, and now being at the risk of being detained if they do not have this extension? Are the processes working well enough that we can be confident that people who are applying for extensions of stay are getting them regularly enough so that they do not end up as detainees?

Mrs. Gandhi-Andrews: Persons are obligated to go to the Immigration Division before the expiration of their landing certificate to apply for an extension of stay. They cannot come month after their landing certificate has expired to get an extension of a landing certificate that has expired.

Madam Chairman: And is that a general circumstance?

Mrs. Gandhi-Andrews: It is a general circumstance. Since we moved into the new building, because there were challenges between 2014 and 2016 when we had a challenge with one of the buildings that was closed. Since we moved into the new facility at Richmond Street in October of 2016, all of our services have resumed fully, for extensions of stay and for person who have applied for permanent residence to be interviewed, and we have also assigned more officers to those two sections to deal with persons. So, right now, we are actually seeing persons who are walking in to get an extension.

Like I said, if it is their landing certificate that was given to them has already expired then they fall into a particular class, and they are referred to the enforcement unit, and when they are referred to the enforcement unit, the enforcement unit would more often than not put them on an order of supervision. Depending on the circumstance at that point in time of the particular individual, they may be detained at the detention centre, if there is no support, depending on their unique circumstances. They may be detained and put before a special enquiry officer for that special enquiry officer to determine whether or not they should be deported, or whether they should just be given voluntary departure, and allowed to leave.

Madam Chairman: And allowed to leave. Sen. S. Hosein.

Mr. S. Hosein: Thank you very much, Chair. Chair, I just have a follow up question following from member Forde, and then my substantive question. With regard to the amount of detainees that are currently in the centre, or from your experience in the past, what is the most common breach of the Immigration Act that has so many detainees in the country? And, of the amount of detainees, what percentage would be those that commit criminal offences?

Mrs. Gandhi-Andrews: It is almost half and half between those who have overstayed their time and found working illegally, and those who have entered the country illegally, and I can give you an example: Of the 85 persons who we have at the—85 males and 35 females who we have presently, 52 of them are at the detention centre for illegal entry. Forty of those persons were found to have overstayed their time and would have been working illegally. And in addition to that, they may have expired travel documents and whatnot. And 12 of those individuals are there for possession of drugs. There are others who are there for—there is one who is there for importing counterfeit currency; a few of them who are there for tendering fraudulent documents and would have been prosecuted before the courts. And typically that is what we see, half and half with overstaying and in breach of the Immigration Act, and those who would have entered the country illegally, and maybe it varies from time to time. Maybe about 5 to 10 per cent who would have committed criminal offences.

Mr. S. Hosein: I just want to carry the conversation back to the structural issues that we were addressing previously with regard to the IDC, the Immigration Detention Centre, and the rehabilitation works that have been undergone recently. Now, I noted in the submission of the Ministry that there was an upgrade to the entire facility in terms of the air conditioning unit; also, I would have seen that there is no provision for potable water, or a cool wholesome drinking water supply; and also I saw that there is a repair to a perimeter fence, but this project is deferred to 2019.

Now, my first question is, was it taken into consideration to have potable water available to the detainees at the centre? Because there have been issues raised from the Living Water Community where a person is only provided 300 mls of water per day. That is almost the size of chubby bottle. From the refurbishment why was this not taken into consideration? That is my first question, so I will allow you to answer that and then I would pose my second question.

Mrs. Gandhi-Andrews: We provide bottled water to the detainees, and they are provided with the bottled water as and when they need it. Yes, I agree that perhaps we should have some kind of system, some kind of cooler, some water dispenser at the facility, but more often than not when we put a water dispenser at the facility—and there was one before—it was destroyed by the detainees themselves, which is why we resorted to the bottled water.

Mr. Belford: We also provide hot water for the detainees on mornings. Sometimes they require hot water, but we have had to restrict that use since detainees threw hot water on two detention officers, who were hospitalized and have since resumed duty, after one of them suffered second degree burns about the body. So those are some of the challenges that we face with the detainees. So we have had to restrict the use of the hot water as well—closely supervised.

Mr. S. Hosein: Now, I am very surprised that the water dispensers are destroyed. Are these detainees supervised on a 24-hour basis to ensure that there is no defacing of the State's property?

Mr. Belford: Yes, they are supervised on a 24-hour basis, but we do not have—the ratio of supervision is 1:8 based on international best practices, meaning one detention officer to eight detainees. It is impossible at times for one officer to be around all these detainees at the same time. So, things do happen. It is, of course, contained immediately, like the incident with the hot water for example. So, we provide a percolator for the detainees during the morning breakfast. That percolator was made available to them in the indoor recreation area and, of course, the detainees and them felt that they were not getting enough—there was an issue with breakfast, and there was a struggle between two detainees of two different nationalities, the detention officer tried to contain that struggle, and in that process they threw the hot water on two detention officers, and that is what happened to them. So, it is impossible at times when you have 85 persons. Remember we are looking at a ratio of 1:8 based on international best practices. But when something does happen it is contained speedily.

Mr. S. Hosein: Okay. The second question is with regard to the perimeter fence, is there an issue with the fence, that is why it was listed as part of the repair works?

Mr. Belford: The fence that we have is a chain-link fence. We are trying to get wire walls, in keeping with international best practice.

Mr. S. Hosein: They said repair to the fence, so is there an issue with the fence? That is under the rubric that we got, repair to perimeter fence.

Mr. Belford: Well, I think it is basically to enhance its structural integrity that exists now.

Madam Chairman: If I may, a question now dealing with the staffing at the centre. Based on the submission, I am

counting between Detention Officers I and II, 83 officers, based on your submission now, you have indicated that what you are preferred or what is best practice would be 101, about 170 Detention Officers I and II. So you have about 83 now, and you have indicated that you need almost double that. This is based on your submission, pages 12 and 13, and if I am following that the detention centre is designed for 158 detainees, and you have about 120 now, I find the ratio of—I am counting those only as the ones who would be in direct contact with the detainees. So, if we are looking at, at present 120 detainees to 83 Detention Officers I and II, and you are indicating that you would want 170 or so, in the centre as designed for, at maximum 158 detainees, I find the ratio to be a bit high. You mentioned one officer to eight detainees earlier. Can you give us some clarification about that, because it seems to be off? You have 120 detainees now, 83 Detention Officers I and II, how is that.

11.35 a.m.

Mr. Belford: Yes, Madam Chairman, there is a definite error in the numbers and we do apologize for that. But just to add some further clarity, in terms of the allocation and deployment of the detention officers, we have detention officers that work at the gate. We have detention officers at work on the perimeter. We have those that work in the housing units and we have a special team called the Special Operations Team. They work outside of the detention centre doing escorts to and from the airport, various ports, taking people to court and so on. So there is a definite error in terms of the numbers. I cannot get the specifics now but—

Madam Chairman: Is it an upward error or a downward error?

Mr. Belford: An upward error, clearly, because based on the figures we have now, we actually should have 20 officers who are assigned to the Special Operations Team and they work closely with the Immigration Enforcement Unit in terms of taking detainees to and from the facility for various reasons as I noted. And the other officers are working at the detention centre, either externally—perimeter and gate—or internally in terms of the housing units.

Madam Chairman: So you over-quoted here?

Mr. Belford: Yes.

Madam Chairman: You over-quoted what you have or what you want?

Mr. Belford: What we want.

Madam Chairman: So you actually have 83 officers, detention officers one and two? [*Crosstalk*]

Ms. Singh: No, you have 109.

Madam Chairman: 109 would be all the assistant detention manager, detention supervisor. I did not count those because I am assuming those are part of the administration. So I am referring only to the one and two who I think would be in direct contact.

Mr. Belford: Yes.

Madam Chairman: It should be approximately 83, give or take one or two?

Mr. Belford: Yes, Madam Chairman. It should be—66 and 28, 14—

Madam Chairman: So there is an error with what you have as well?

Mr. Belford: Yes, Madam Chair.

Madam Chairman: So you do not have 83?

Mr. Belford: No.

Madam Chairman: How many do you have? Do you have it on hand?

Mr. Belford: No, Madam Chair.

Madam Chairman: Okay. So could we ask then for you to submit revised figures for what you have, because what you have in the submission does not gel with the 1:8 ratio.

Ms. Singh: Yes, Chairman, we will seek to get the specific figures on that for you.

Madam Chairman: Okay. So we would have that?

Ms. Singh: And submit in writing, yes.

Madam Chairman: Okay, appreciated.

Mrs. Gayadeen-Gopeesingh: Thank you, Chair. At page 22 of your submission, it is stated that the Immigration Detention Centre is designed to accommodate 120 males and 38 females. So at any point in time we may have, like say, 158 persons or if we round it off we might have an estimate of about 200 persons. Now you are saying you have 85 males, 35 females, so we have about 120. I have turned to Appendix 4, line 40, food at the institutions. And what I am seeing here, there is a gradual increase in the allocation and what really stood out is at 2015, \$5.5 million was spent, five and a quarter in 2016 and when it was revised—provision in 2016, we reached up to \$6 million. So I need to have some clarification and perhaps if you can justify the allocation of \$6 million spent, you know, that was spent for how many persons, because we are seeing the maximum you can hold is perhaps 200 persons. So how you could justify \$6 million spent on food at the institution?

Mrs. Gandhi-Andrews: It can hold that amount at any given point in time but you have to remember that the numbers that passed through the detention centre at any given time change. So while we may have 85 males today, by tonight we may have 100, because of the exercises that would have been conducted overnight in the last two days. So the numbers change. So what the total is, you have to look at the numbers of persons who would have passed through the detention centre over the year. And we would have sent the numbers of persons who would have—*[Interruption]* Yeah, yeah. So it would be the numbers that would have passed through the detention centre.

In addition to that, the caterer would have increased the cost of the meals. Prior to—what year was it, '15? Right. It was \$50 for three meals per day, per detainee. That was increased to \$80 for three meals for each individual per day and that would account for the increase in the amount of money that we would have spent in food for the detention centre.

Mrs. Gayadeen-Gopeesingh: Is it then, it may be more prudent that the processes in expediting these detainees you have these inordinate delays, so we can save some of this money. Because I am looking at also one of the submissions and one of your challenges experienced is the unavailability of funds to purchase tickets for the repatriation. So perhaps if the processes are expedited we can have some money allocated to purchase tickets for these detainees and the process could be more fluid.

Mrs. Gandhi-Andrews: Agreed. However, as I mentioned earlier the length of a stay at the detention centre is dependent on a number of factors. One would be, the identification of the individual, the acquisition of travel documents for the person, whether they require an escort to their home country and that in itself presents, like I said, a challenge for us. We try as far as possible to repatriate individuals as quickly as possible. We have improved our processes in terms of, from detention, to going through the process of a special enquiry, to ordering somebody deported or giving voluntary departure. And at the end of that process is when we require an airline ticket for their repatriation.

More often than not, persons provide their own tickets or their family members would provide tickets for them to leave. If not, then the State is required to purchase a ticket. And that, of course, is a process where a submission is made to the Permanent Secretary for funds to be made available for the purchase of a ticket. And if they are to be escorted, the tickets and whatnot for the escorts. So, yes, but we have significantly improved our process in terms of, from detain or arrest to order deported. And most of the persons—

Madam Chairman: If I may, right there, to interject as you are answering. What does that significant improvement represent in terms of time?

Mrs. Gandhi-Andrews: It represents adding more staff to deal with the persons in terms of writing their reports, doing the investigation, liaising with foreign missions to get identity documents for the individuals, liaising with Interpol to do traces on the individuals and following through with Interpol on that.

Madam Chairman: So have you been able to measure the decrease in detention time, in average detention time, for the detainees at the centre?

Mrs. Gandhi-Andrews: Yes, because at least two years ago, more often than not, persons would have remained at

least, maybe six months to a year before we could have done anything with the individual in terms of being able to identify them and acquire travel documents, et cetera, and repatriate. The persons who are there for longer than that we have more challenges in terms of identifying them. But that has been reduced to at least two weeks to four weeks, from six months in terms of—

Madam Chairman: Detention time.

Mrs. Gandhi-Andrews: Yeah.

Madam Chairman: You can say, average detention time has decreased from about six months to two weeks.

Mrs. Gandhi-Andrews: Yes, two weeks to four weeks depending on the circumstances and where the person would have to travel and how quickly we can acquire documents for their repatriation. But like I said, we have increased resources to deal specifically with the detainees.

Mrs. Gayadeen-Gopeesingh: And that brings me to the point, increasing resources. Is it then that this contract employment at line 16 in 2013, zero dollars allocated, '14 and then we have reached '15, \$8 million allocated. How many persons you—I do not know if you have the figures or the numbers, but from zero to \$8 million. So, how do you account for \$8 million being allocated for contract employment? And how many persons?

Mrs. Gandhi-Andrews: Prior to 2015 they were on three-month contracts, they were on short-service contracts and then we got approval for them to go on three-year contracts from the CPO with the relevant salaries and whatever allowances they would need to have. And there was also an approval to increase the numbers of detention officers when we created the SOTs. So we increased it by at least 22 officers.

Mr. Forde: Chief Immigration Officer, in terms of the dollars we are now hearing, wanting to increase these detention officers, the repatriation, if we expedite that aspect we would not have the need for all that financing that my two colleagues have been mentioning—food, and all those different things—and we could then relocate these detention officers to different positions in the immigration department. Have you all done a survey, looked at the statistics in order to weigh the pros and the cons and the cost benefits with regard to what you are now explaining?

Mrs. Gandhi-Andrews: Like I said earlier it is a fluid system at the detention centre, because at any given time we may have no detainees or we may have close to 200 detainees.

All I need to do is to send my officers in two areas in Port of Spain and in south and I could end up with at least 400 people who are illegally in the country and I have no place to put them.

Mr. Forde: And again it comes back to the question, Madam, with regard to your division in the red tape and the bureaucracy in creating detainees.

Mrs. Gandhi-Andrews: I would disagree—

Mr. Forde: Because you are saying that you know where you can go and collect them.

Mrs. Gandhi-Andrews: No. I would disagree with that.

Mr. Forde: Why are we not dealing with them before the scenario, where you have to go to pick them up?

Mrs. Gandhi-Andrews: At the end of the day when someone enters the country legally and they are granted permission by the immigration officer to stay for a particular period of time, anybody who wants to stay longer than that, the obligation is on that individual to go to the Immigration Division to seek an extension of their stay. If they do not come to seek an extension of their stay and their landing certificate has since expired, they have now ceased to be a permitted entrant into Trinidad and Tobago and they are subject to deportation, detention, arrest, detention, deportation.

When we go out on an exercise and we detain anybody and we would go through our process, we would check our records to see if the person is legally in the country, if they came through a legal port of entry and we would do an interview with that individual to find out what their circumstances are. And then we would make a determination as to whether they should be detained or whether they should be put on an order of supervision. I quoted 455 persons are on orders of supervision. So I disagree that we are creating a situation. The onus is on every person to report to the immigration division for a service.

Mr. Forde: Is there a fear of these persons coming to your division?

Mrs. Gandhi-Andrews: There cannot be a fear, because if they are to remain in any country legally, they are the ones to approach the authorities. So that the onus is on that individual to come to immigration and not find themselves in an irregular situation which would then and can lead to detention and deportation.

Mr. Forde: Madam Chair, I think, again, in the initial response, in terms of the financial aspect that my two colleagues, Sen. Hosein and Mrs. Gayadeen-Gopeesingh, with regard to the financial costing of the division versus the repatriation. When we look at those statistics I think it may cost the taxpayers less in order to ensure that we get these people out of the country.

Madam Chairman: If I followed closely, the average detention time of six months has been reduced to, on average, four weeks. That is in response to trying to get the detainees out faster. The question that is being raised, and I am not sure if it has been fully answered yet, is the increase in contract employment. That came about—if you can just guide us through that again. How did that come about to increase so sharply?

Mr. Belford: Madam Chairman, when the Immigration Detention Centre was established in November 2009, the detention officers were then engaged on what is termed short-service contract. I think—

Madam Chairman: Would that have been picked up in a different line item?

Mr. Belford: Yes it would, yes. So it is only in 2014 that they were—

Madam Chairman: That would have been Other Contracted Services?

Mr. Belford: Yes.

Madam Chairman: So the decrease in other, Line Item 28, Other Contracted Services would have been mirrored by an increase in the Line Item 16, which would be Contract Employment.

Mr. Belford: Correct. Yes.

Madam Chairman: And that would have reflected the change from Short-Term Employment to Contract Employment.

Mr. Belford: Correct.

Madam Chairman: Sen. Dr. Mahabir?

Dr. Mahabir: Thank you very much, Madam Chair. I want to shift a little bit away to a human rights issue. And that is, we are speaking about detention. Detention represents the loss of much of someone's rights. He has some rights in the centre but his freedom of mobility, freedom of movement and so on have been taken away. Yet, in one of the submissions that we received, it was stated that there were detainees who were not informed of their right to legal representation at the detention centre, and I would like to know two things. One, what is the process that is available for a detainee so that the moment he has been admitted to the centre he can obtain legal representation, say from legal aid or some other arm of the State?

And second, what is the role of the embassy in all of this? We do have embassies here, or I have heard the problem with the Bulgarian, I do not know if we have that type of embassy here, but certainly there must be a role for the legal arm of the State to provide representation even though they are not our citizens. They are on our soil and their rights must be protected as well. And second, their embassies must be involved in some way and I am not sure how. Could you elucidate on both please? Thank you.

Mrs. Nelson-Joel: Thank you, Sir. We want to inform the Committee that when a foreign national is detained, even before he gets to the Immigration Detention Centre, he is advised of his right to have an attorney, to have a friend, to have a relative, anyone come to his aid. As well, through the Ministry of Foreign and Caricom Affairs, all embassies are informed, all embassies and high commissions are informed if their nationals are detained and taken to the Immigration Detention Centre.

Dr. Mahabir: Okay, follow-up question. Were there any cases, or is there any case in which a detainee was denied legal representation? Is there any case to your knowledge where a detainee has complained that the process you

outlined was not complied with?

Mrs. Nelson-Joel: To my knowledge there have been no cases like that. The detainees—the embassies and high commissions are free to go to their nationals, as well as attorneys are free to go to the detention centre to speak with their clients.

Dr. Mahabir: Many of the detainees may of course not have much by way of finances. Is the legal aid department working closely with the detention centre to afford these detainees whatever representation they require or they may request?

Mrs. Nelson-Joel: As far as I understand, in prior times the legal aid has not been involved but now the legal aid is involved in representing people who require that assistance.

Dr. Mahabir: So you can give the Committee the assurance that every single detainee at the Immigration Detention Centre can and will receive legal representation if a request is made in some form at the last resort being legal aid?

Mrs. Nelson-Joel: Yes, for those who require it.

Dr. Mahabir: Who request it. Thank you.

Mrs. Nelson-Joel: Yeah.

Mr. S. Hosein: I just want to go back to the answer that troubled me the most with respect to the meals. I was very surprised. Now, when member Gayadeen-Gopeesingh quoted the figure, this was the actual figure for food for 2016 which was \$5.2 million. Now, when I looked at the *[Interruption]*—sorry, well 5.2 for 2016. Then when I looked at the figures that were provided to us, there were about 1,146 persons at the time at the detention centre for that year. And we are saying that we are paying \$5.2 million to feed 1,146 persons who are detained and \$80 per meal, and when I looked at the menu we see that cheese spread sandwiches in four-inch buns and a tea and a juice cost this nation—

Madam Chairman: It was not \$80 per meal, sorry. Just a correction. It was \$80 for the day.

Mrs. Gandhi-Andrews: Eighty dollars per day for three meals.

Mr. Belford: It is \$80 per day for three meals; that was increased from \$50 per day for three meals. We should note as well that the person who provides the meals is a school feeding programme distributor.

Mr. S. Hosein: Can we have the name of the contractor, please?

Mr. Belford: Sure. What is the name—

Ms. Bharath: JD De Freitas.

Mr. Belford: JD De Freitas.

Mr. S. Hosein: Company Limited?

Ms. Bharath: Yes.

Mr. Belford: Yes.

Mr. S. Hosein: Thank you.

Madam Chairman: If I may ask now, there have been reports that there is not a system in place for complaints and investigations at the Immigration Detention Centre. What is the system in place when a detainee needs to make a complaint against an officer or so at the centre?

Mr. Belford: The system in place currently is that the detainee may speak to a detention supervisor or one of the immigration officers on duty and make such complaint. Once the detainee is willing to give us that complaint in writing an investigation is launched by the detention manager who is an assistant superintendent of police and he may assign another detention supervisor to investigate such complaint.

Normally, if it is a complaint made by one of the male detainees, the female detention supervisor may investigate and if it is a complaint made by one of the female detainees, you have a male detention supervisor may

investigate to create a level of transparency. And if a complaint is made against a particular detention officer then a senior—that senior, that officer’s supervisor would investigate. So if it is made against a Detention Officer I, for example, we would have a senior detention officer conducting the investigation.

Mrs. Jennings-Smith: Madam Chair, who concludes these investigations? What role does the Commissioner of Police have over these investigations?

Mr. Belford: Well if it is a use-of-force complaint, the assistant superintendent does the initial investigation and that would of course have to go to the Commissioner of Police via the office of the SRP adjutant. But we have had only one incident in terms of a use-of-force complaint thus far.

Mrs. Jennings-Smith: Who is the SRP adjutant responsible for that and what is his rank?

Mr. Belford: The SRP adjutant is a police superintendent. Police Superintendent Jackson, currently.

Mrs. Jennings-Smith: Are you certain that when a report reaches to Mr. Jackson, who is an—what he is? An assistant superintendent?

Mr. Belford: Just Superintendent.

Mrs. Jennings-Smith: Are you certain that that report meets with the eye of the Commissioner of Police?

Mr. Belford: No, I am not certain, I cannot say.

Mrs. Jennings-Smith: What is the process? Does it end with an assistant superintendent of police?

Mr. Belford: No. In terms of the use-of-force complaints it is according to the police service regulations. The initial investigation is conducted by a First Division Officer who in this case is the assistant superintendent at the Immigration Detention Centre and the findings of that report, because again the assistant superintendent belongs to the Special Reserve Police, is forwarded to the Commissioner of Police via the SRP adjutant.

Mrs. Jennings-Smith: How many such cases of brutality reports you all have had which reached to the Commissioner of Police’s desk?

Mr. Belford: Thus far we have one report of abusive use of force that was submitted by a Guyanese national after he was repatriated, through the Ministry of Foreign and Caricom Affairs. That matter was investigated by the detention manager who interviewed several detainees. The matter was concluded as being unsubstantiated because there was no supporting information from the detainees.

Mrs. Jennings-Smith: I want to ask a question. For transparency purposes, because we have persons at the detention centre who are supervised by the detention officer, who is also supervised by a manager who is also part of that process and when a report reaches to their attention, what authority does the Commissioner of Police have over that detention centre in terms of having an external investigator involved in reports such as those?

Mr. Belford: Well, the Commissioner of Police shares hybrid responsibility for the Immigration Detention Centre in that that is the person who appoints the Special Reserve Police Officers who are engaged on contract as detention officers. So again, hybrid, in that they are employed by the Permanent Secretary, Ministry of National Security on contract but they are also accountable to the Commissioner of Police who appoints them and gives them the legal powers to perform as police officers.

Madam Chairman: I want to submit and I take the point of Mrs. Jennings-Smith that I do not believe, I do not know if you believe that that complaints process is robust enough and independent enough for a detainee to feel comfortable reporting, because you are reporting within the same system. You are complaining to the same people who are supervising you and, of course, there would be the intimation of some type of bias because you, I mean, all the officers and you are complaining on an officer. Do you think this is robust enough and are there any plans to introduce some sort of independence into the complaints process?

Mr. Belford: Well certainly the system is not robust enough. We have been looking at what applies in some developed societies, detention centres, where they have an external complaint mechanism and that is something that we are still looking at to see how it could work in Trinidad and Tobago.

Mrs. Jennings-Smith: Now, there have been some reports where certain persons who have been at that detention centre who came up with their passage money or some family member or somebody came up with their passage money. What is the process which guides this activity if there is a family member who is willing to pay for the repatriation of a person who is at the detention centre? What could stop that activity from happening?

Mrs. Nelson-Joel: In some cases the person may not have a valid travel document. In some cases the person may not have valid visas to go through the countries that they wish to go. We have had persons in the past who refused to sign their forms to get their visas to go through the countries that they need to and so even if the ticket is provided they just cannot travel.

Mrs. Jennings-Smith: How many persons you have like that at the detention centre?

Mrs. Nelson-Joel: At present?

Mrs. Jennings-Smith: Yes.

Mrs. Nelson-Joel: I do not know of anybody like that at present. You mean who have provided tickets and are not allowed to go?

Mrs. Jennings-Smith: How many persons you have who are in this category where they do not have the visa and the countries that they have to pass through. How many people you have like that at the detention centre at this point in time?

12.05 p.m.

Mrs. Nelson-Joel: Could you repeat the question, please?

Mrs. Jennings-Smith: How many persons do you have at your detention centre who do not possess a visa to be sent back to the country, or they do not have a visa to pass through a particular country to go to where they have to land?

Mrs. Nelson-Joel: Okay. So most of those cases are the African nationals.

Mrs. Jennings-Smith: How many persons do you have like that?

Mrs. Nelson-Joel: I cannot tell you offhand how many. [*Confers with colleague*] Okay. So, approximately 25 persons from the African continent who would need to have valid travel documents.

Mrs. Jennings-Smith: And how long have they been there?

Mrs. Nelson-Joel: Various periods.

Mrs. Jennings-Smith: An average?

Mrs. Nelson-Joel: Approximately two years.

Mrs. Jennings-Smith: Two years. And what is the plan to have them repatriated at this point in time?

Mrs. Gandhi-Andrews: There are a number of challenges in repatriating the African nationals, apart from the visas. We have been looking at different routes which would not require a visa for them to travel through and which routes, of course, are open for their repatriation. We have examined, and we did put forward a proposal, as we had on two occasions, to charter an aircraft to go to the African continent. We have been advised that there are no funds available for that exercise. So what we have been doing is approaching the PS to see whether or not, depending on the route—and we have identified one now that takes them through Turkey, which will not require a visa—to purchase tickets for those individuals to leave.

We tested it with a couple of them and they have left. Two persons left this morning. In fact, someone—a good Samaritan, we will have to call him—agreed to purchase tickets for two individuals to leave. So we are slowly trying to see which routes we can take them through, now that the one through Turkey is now available, and it is a little bit circuitous. And we try not to have to send them through too many different countries because that is when they kind of end up getting lost in the system.

Some of them have to be escorted, and of course, the escorts will also have to go through those channels as

well. And if someone has to be escorted, then the cost of that repatriation exercise will go up. A number of them have criminal records and have committed criminal offences, and those persons definitely require escorts. So those persons, we try to take a more direct route. But, again, now that certain countries require—and we cannot sign a visa application form on their behalf; they have to sign it themselves. We have tried with some repatriation and the persons themselves, on the day to be repatriated, decided that they were not going and created a scene at the airport which resulted in the airline saying they will not take them on board the aircraft because they see them as a risk.

So we have been trying, and the Ministry of National Security has made some funds available to us to purchase tickets for those persons who are able to now go through those routes.

Madam Chairman: Just to clarify. There are about 20 African nationals who are housed at the IDC for the past two years, on average?

Mrs. Gandhi-Andrews: No, not all 25. Within that 25 there may be about four or five of them who have been there for at least two years.

Mr. Belford: Five.

Mrs. Gandhi-Andrews: Five of them.

Madam Chairman: Five of them are there for at least two years.

Mrs. Gandhi-Andrews: For at least two years. And there are a number of challenges with some of them. One of them, we have not been able to identify because he gave us four different nationalities and every time—he does not have a travel document. I think only a month ago he provided a travel document for us and we now have to verify the authenticity of that travel document. He gave us four different nationalities. So he was one who remained there. Every time when we interview and the person says, “I am from Nigeria”, we take fingerprints, photographs, information. The foreign mission would interview them and then they have to make a check through their system to determine whether that individual is, in fact, a national of that country.

If they come back and tell us, “No, this person is definitely not a national”, and we go back to interview again, “Well, no, you know, ah really not from Nigeria. I am from Ghana.” And we have to go through the process again. That person told us he was from Nigeria, then Ghana, then Senegal, and now there is a document that he provided that says he is from Gambia. So we have written to the authorities in Washington DC to verify that travel document. And for those individuals, that is typically the challenge that we have had trying to repatriate those who are there for the longest, in identifying them. And then there were those who absolutely—one of them, as I referred to earlier, who simply did not want to go on the aircraft when arrangements were made and has resisted any attempt at repatriation thereafter.

Madam Chairman: Does the embassy have any role at all in making sure—because it sounds almost as though an individual who wants to remain in the detention centre can simply remain in the detention centre by saying different things, not telling the truth, causing a scene at the airport. When does it end?

Mrs. Gandhi-Andrews: And that requires a higher decision. Within the ambit of the Immigration Act there is no provision for us to release such a person, to grant that person any kind of immigration status. That person has been ordered deported and has to leave the country. The embassies—their involvement, typically, would be to provide a travel document for that individual and confirm their nationality, and their responsibility ends at that point. They will go and they will visit. They will try to coerce them to cooperate with the Immigration Division for their repatriation, but ultimately it is up to the individual to leave, and to leave willingly. I guess that some of them, we make all of the arrangements. They get to the airport. Some of them have gotten on the aircraft and then decided that they will act up and, of course, the pilot would have put everybody off the aircraft and said that they are not taking them.

Dr. Mahabir: Thank you very much. And that raises for me, Madam Chair—thank you Madam Chair—a follow-up with respect to—I am putting myself in the situation of someone who is in the detention centre and who is giving your officers trouble. And if I am that person, most likely I am afraid to return to my country. What I am asking is, what is the procedure for dealing with someone who has claimed that he is fleeing persecution of one form or the other from his country and he is seeking refuge in Trinidad and Tobago? Do we follow the relevant protocols? And if so, what are these protocols for refugees?

Mrs. Gandhi-Andrews: There is a system in place. Of course, there is no national mechanism. There are no laws in

Trinidad and Tobago to deal with asylum seekers and refugees. There was a Cabinet-approved policy at 2014 and since then we have been working closely with the Living Water Community and the United Nations High Commissioner for refugees on a system of facilitating those persons who are in fear of returning to their home country. We have standard operating procedures that have been developed and have been signed off by the hon. Minister in terms of how they are to be treated. Any person who expresses a fear of returning to their home country is referred, through the standard operating procedure, to the Living Water Community and to UNHCR. There have been a number of the persons at the detention centre who have gone through that arrangement. They have been interviewed by UNHCR and were deemed not to be refugees. They did not have a claim. So those persons remained at the detention centre because they would have gone through all of the processes.

So that we have, in the Immigration Division, as part of the arrangement to deal with the growing problem of asylum seekers in Trinidad, we have set up a refugee unit so that those persons who go to Living Water come to Immigration, we know who they are, we open a file and we monitor them throughout the process while they go through the interview process with UNHCR.

At this point, UNHCR are the ones who make the final determination as to who is a refugee and they would send that information to us, and there is a process. Once they are recognized as a refugee, we immediately release them from the detention centre. And we are working now on a process with the Ministry of National Security to put those persons, perhaps, on a Minister's permit, which is the only thing, really, under the Immigration Act right now that we can use to facilitate those individuals. So there are a number of things in place. There is draft legislation. That went to LRC. So there is a process now that we are developing to try to address this issue of asylum seekers and refugees.

Dr. Mahabir: Thank you very much. So is it that once you have the necessary legislation governing refugees in Trinidad and Tobago, the process that you face with respect to dealing with detainees can be expedited?

Mrs. Gandhi-Andrews: Yes, once they claim that they are seeking asylum. Not all of them say they are an asylum seeker. So once that person has expressed that fear, that well-founded fear of persecution, there is a process in place right now to treat with those individuals, and those individuals, I guess, if they are recognized as a refugee, are not kept at the detention centre. In fact, right now, once they have been registered with UNHCR, especially those who would come to our attention now, and there are claims, and UNHCR issues an asylum seeker certificate to this individual, we put them on an order of supervision. And so, they do not remain in detention.

Dr. Mahabir: My question was, what would legislation do in addition to the process you currently have to expedite the processing of refugees?

Mrs. Gandhi-Andrews: Legislation would then put the onus on some national body, whether it be the Immigration Division, to now treat with all of these individuals who are claiming asylum. Because there is a distinction with those who are claiming asylum and who might simply have entered the country illegally. They are not claiming asylum, or they might be in breach of some part of the Immigration Act.

Madam Chairman: Just to follow up there. Once they enter the country, once they are detained, if they do not request—do they all request legal representation, or is that provided for them? Because one of the issues raised was that detainees are not advised of their right to seek asylum. So how is that done? If they are detained, they all require legal representation and that is provided if they cannot provide their own?

Mrs. Gandhi-Andrews: Typically, if they require legal representation, they can ask for it. We will make arrangements for them to get legal representation, and that comes through Legal Aid. That is not paid for by the Immigration Division.

Madam Chairman: Is that a requirement then, for them to be legally represented once they are detained?

Mrs. Gandhi-Andrews: They can ask for it.

Madam Chairman: If they do not ask for it, they do not—

Mrs. Gandhi-Andrews: If they do not ask for it, it is not provided. Right? Some of them do not want legal representation. Some of them ask for their repatriation as soon as possible. Some of them would ask for a family member to be contacted instead of a legal representative. Because from the time they are detained, we ask them what do they have. Do they have some family member here? Is there somebody we can contact for them? And that is

afforded to the individual.

When it comes to seeking asylum, again, there is no national process in place. We are now working on systems to put in place for persons who say that they are seeking asylum in Trinidad and Tobago. We are waiting for directives as to how we should treat with individuals, whether or not—because there is no legislation and there is no process in place, and an external agency, an international body, are the ones who are making a determination as to who, in fact, is a refugee in Trinidad and Tobago.

So that we are still waiting on guidance as to how persons who make a claim, whether or not we are to advise them, “Yes, you can make a claim for asylum”. I am not at liberty to say whether or not we can do that. It is not part of the process, the standard operating procedures that are in place and that have been agreed upon so far. However, anybody who says that they are seeking asylum, they go through this standard operating procedure that we have approval for.

Mrs. Gayadeen-Gopeesingh: Under the Immigration Act, once a person enters the country under a Minister’s permit, and let us assume that person continues to live in the country for five/10 years, those years do not contribute or add up to give that person residency. So in that instant, what happens to that person who has entered under a Minister’s permit, one; and secondly, my other question is the case of Venezuelans. Is it mandatory that you have to purchase airline tickets for them? Or is it that you can use an alternative mode of transport?—knowing that we are only six miles away we can use a boat.

Mrs. Gandhi-Andrews: I will take the last question first. Yes, we have sent some persons by boat. They do not have to purchase an airline ticket. And they go to Cedros or to whichever port a vessel is leaving to be repatriated to their country. So that has taken place. In terms of a Minister’s permit, entry under a Minister’s permit does not lead to any residence. In fact, if you look at the legislation, it says the Minister can order their deportation at the end of it, and it is legislated that it cannot lead to the grant of permanent residence, no period under a Minister’s permit. More often than not, the Minister’s permit is a last resort, and most of the persons who should get a Minister’s permit are persons who are actually deportable.

So the Minister can allow a person to remain, even somebody who has been ordered deported, to remain for a period of time no longer than 12 months, and the Minister may renew that or give another Minister’s permit for another period of time. And, yes, that could go on indefinitely, as long as a Minister agrees to give a Minister’s permit. For refugees, that would not be the ideal thing, and it is—in the draft legislation we are making some recommendation, as in other jurisdictions, where some kind of temporary immigration status can be granted to those persons who are, in fact, recognized as refugees, but we do need legislation for that.

Mrs. Gayadeen-Gopeesingh: Under the Act, you could only grant a Minister’s permit for three years. So after the three years, perhaps that person has to be deported.

Mrs. Gandhi-Andrews: Well, we are hoping that things can happen before that. Like I said, this is a kind of stop-gap measure, because there is no provision in law to treat with refugees. So this is really a kind of stop-gap measure to have something legally in their hand for them to remain in the country. Right? I would hope that it does not take three years—and what happens then? In fact, UNHCR also reviews the cases and the countries of origin ever so often, because they issue a refugee certificate only for one year, and they review every year after that and they will issue another one or they may issue for two years, depending on the country. And they review the cases all the time before issuing another certificate. So in our submission we are trying to align ourselves with that system but we are hoping that some measures could be put in place before three years.

Madam Chairman: Mr. Forde, and then Sen. Hosein.

Mr. Forde: Madam Chair, I just want to go back—permit me just to go back to the figure that Mrs. Joanne Nelson-Joel quoted with regard to the 25 individuals from the African continent, which is Appendix V that you all would have provided to us. And, you know, it is interesting to know that out of the 25, Madam Chair, 19 of those persons are from Nigeria. So again, a simple question is: No special arrangement can be made if those 19 individuals can be accommodated? And then when you look at the other six, it is five from Ghana, one from Gambia and one from Sierra Leone. In order to get a plane into the African continent, into Nigeria for the 19 individuals, and then—I know I am saying it simple, but you will have to guide me—what are the ramifications?

Mrs. Gandhi-Andrews: On the last two occasions we flew into—we had a number of persons from Ghana and from

Nigeria. With the ECOWAS countries, they can land in one country and then they could make their way to another ECOWAS country. Sometimes we might be able to purchase a ticket from them from that particular—let us say they land in Nigeria—to the other African country that they are going to.

To charter an aircraft, we have to tell the charterers where we are going; why we want to go and they determine how many persons can be put on the aircraft. The last time we checked with an airline it was costing anywhere from 500 to US \$650,000 to charter an aircraft. And it depends on the arrangements. Sometimes they do not return to Trinidad. So for the escorts—because it is not just the detainee or the deportees—you also have to have a number of escorts going with them on the aircraft. And the airline would determine those arrangements; how many escorts we need to put with each individual.

We had two charters in the past. The last one would have cost us about \$3 million and we were able then to charter a Caribbean Airlines flight—that is when they had the wide-bodied aircraft going to London—and we were able to use that aircraft at the cost of just around \$3 million. There was one prior to that that cost us—I think that was \$5 million that one cost us. Somewhere in 2013 we had done the first one, because there were a large number of African nationals again. So when we did this—and some of the African nationals—19—now this 25 is down from the 45 that we had previously when we started looking at chartering an aircraft. So we have been able to reduce the number of persons from the African continent from just about 49 to now 25.

The Nigerians have always been the largest number, and of this number for the Nigerians, some of them, I guess, that have criminal offences, most of them have entered the country illegally. So trying to repatriate them now, chartering an aircraft now for the 25 or even the 19, may not make sense with the numbers that we are looking at—the figures that we are looking at. So we have written to the Permanent Secretary asking for funds in order to repatriate them now that this different route is available to us.

Mr. Forde: And again, I must make mention, keep in mind the food bill.

Mrs. Gandhi-Andrews: Yes.

Mr. Forde: Nice, all right. I just want to go close to home now. My last question.

Madam Chairman: Before you go there, what is the cost of buying the tickets then?

Mrs. Gandhi-Andrews: The purchase of the ticket—a ticket would probably cost around \$35,000, depending on the time of the year—\$35,000 to \$45,000.

Madam Chairman: So it is much less than the—

Mrs. Gandhi-Andrews: Exactly. If there are escorts to go with them, then, of course, it is three escorts we are talking about and we have to purchase a return ticket and all of the meals and the hotel accommodations and whatnot, for the escorts. So it could run well over \$200,000 for any repatriation, if the person has to be escorted.

Mr. Belford: Madam Chair, we should note as well that the airlines have specific restrictions as regards the amount of detainees that can travel on any particular flight at one time.

Madam Chairman: I would imagine so.

Mrs. Gandhi-Andrews: They say they cannot carry more than two. Two is their absolute maximum.

Mrs. Jennings-Smith: So in one week you could carry 10.

Mrs. Gandhi-Andrews: And like I said, each of them has to have three escorts once any leg of the journey is over eight hours. That is the requirement.

Mrs. Jennings-Smith: Madam Chair, I want to—you see, being associated, I heard the comment made, “We slowly repatriate them”, and I feel more effort must be made to deal with this issue. Because the word “slowly”—and now we are looking at the problems to dictate what we have to do. And, yes, we look at the problems, but when we look at the problems, like we talk about, we cannot put more than two persons on an aircraft, that would mean in a month you could carry the 10 persons. If we make a schedule of how we are going to get these people out of the detention centre, it could be solved. And as I am saying that, I want to refer specifically to what we are looking at, the current number of detainees as at March 2018. We still have 81 Venezuelans in the detention centre, as stated in your Appendix here.

And, you know, it tells a story. Is the story to have another prison set up there? Or is it a story to deal with and repatriate people back to where they came from?

Mr. Forde: So my colleague just touched on the point that I want to make, which is with regard to the Venezuelans. With your present list, Appendix V, we have a total of 81 Venezuelans, out of a total of 126 detainees as of March 19, 2018. So we are seeing that the trend has changed from the African continent, to our Caribbean neighbours, as the case may be—81. When we go through this particular document, in 2015, male detainees, Venezuelans, 29; female detainees in 2015, zero. We go to 2016. Male detainees, we had a total of 125 male Venezuelan detainees; we had a female total of 97—2016. 2017, male detainees, Venezuelans, 145; female detainees, 2017, 82.

So we are seeing where the numbers are increasing as a result of what is happening to our next-door neighbours. My question to the Chief Immigration Officer, what proactive systems are being put in place in order to manage this situation, in order to alleviate it, in order to—what plans you all have with regard to the Venezuelan scenario?—to simply put it.

Mrs. Gandhi-Andrews: The Venezuelan situation right now is, I would say, complex, in that more and more of the individuals are entering the country illegally. Our figures show that the numbers that arrived at a legal port of entry or let us say, via air, decreased significantly since the situation in Venezuela developed. More persons are now arriving by sea. At least 150 to 200 Venezuelan nationals arrive by boat every week from Venezuela. But the numbers that we are seeing at the detention centre, the majority of them, at least 90 per cent of those persons, have entered the country illegally or have a criminal conviction, either possession of drugs for the purpose of trafficking or possession of arms and ammunition.

So it is changing. And most of them are no longer coming with a travel document. Some may come with a Cedula; some will come with nothing at all and we rely on the Venezuelan authorities to interview their persons and issue some kind of identity documents for them. That now, we had a nice system where they were doing it quite frequently. Now it is not so forthcoming, in fact, there are only certain days that the officers can go to the Venezuelan Embassy to get any kind of information on the nationals. We continue with our process of advising the Venezuelan authorities when we detain anybody.

Our challenge right now is identifying people, the Venezuelan nationals, as Venezuelan nationals. In terms of repatriating them, you first have to get the identity document and confirm that they are Venezuelan nationals before you can make an arrangement for them to go back to Venezuela. The numbers that we are seeing now—and right now, as a matter of fact, we have 37 males and 30 females. That is 67 Venezuelan nationals we have in detention at this present point in time.

Mr. Forde: Which is different from your document stated here.

Mrs. Gandhi-Andrews: Yes, and as I said, it is very fluid. Some persons would have left, and then, like I said, by this evening it may very well change after we interview the 50-something persons who are currently at stations, following police exercises. So that figure may even change by tonight.

Mr. Forde: And this is one of the easiest amounts of individuals you can get out of the country?

Mrs. Gandhi-Andrews: It is not so easy. Once we have the identity documents we then have to make arrangements for their repatriation in terms of the purchase of either a ticket or the purchase of a boat ticket for them to leave. Right? That is not as easy as it sounds. When we did that walk-through at the detention centre with the hon. Minister, there were plans, with the agreement of the Venezuelans, for our coastguard vessels to take persons to Venezuela. That has not yet materialized and the discussions are still ongoing. There are only so many persons who can go on any of these vessels to Venezuela. Some of them do not want to go by boat to Pedernales or Tucupita, because they say it is far away from the city in which they actually live and they prefer to fly.

Caribbean Airlines only has—I do not think they have a daily flight to Caracas. So it depends on the availability of the flight.

12.35 p.m.

Madam Chairman: Just to ask: They have a choice?

Mrs. Gandhi-Andrews: They do not have a choice really eh, but at the end of the day we try. I mean, we have to try

to be, you know, accommodating to the individuals.

Mr. Forde: Human rights.

Mrs. Gandhi-Andrews: We are talking human rights today right, and we are not giving them any money to buy a bus ticket to go from where we are dropping them off, to go to whichever state or city they might be living in. Venezuela is a huge country and when the State provides me maybe with money to give them as stipend to go back home all well and good, but some of them have no money. They come with no money and they are leaving without any money and, therefore, we try as far as possible to either contact their family members through the Venezuelan Embassy, sometimes persons may try to call the family members to send money for them and whatnot.

Madam Chairman: So the Embassy has no role in even assisting them to get from where we can drop them in their country?

Mrs. Gandhi-Andrews: No.

Mrs. Jennings-Smith: But is it the responsibility for us to drop them in their country and that is the responsibility of our country? What is really the responsibility of our country? Is it to get them to their land?

Mrs. Gandhi-Andrews: Yes.

Mrs. Jennings-Smith: How far does our responsibility go?

Mrs. Gandhi-Andrews: And I would agree with that, that we could just take them and drop them anywhere in Venezuela and let them make their way from whatever point we drop them off at. But I think it would either be irresponsible of us as a Government, and as an organization, to try to do something like that and just leave them wherever it is.

Mrs. Jennings-Smith: I did not mean to say anywhere; I meant a port of entry. Is it not the responsibility of this Government to drop them to a port of entry within their country?

Mrs. Gandhi-Andrews: Yes.

Mrs. Jennings-Smith: Because when they land in their country then their Government, they would pick up another type of responsibility with people landing there.

Mrs. Gandhi-Andrews: And I would say—

Mrs. Jennings-Smith: Because when people are dropped off in Trinidad at the Piarco Airport they may live in Matelot—

Mrs. Gandhi-Andrews: Yes.

Mrs. Jennings-Smith:—but they are dropped off in Piarco Airport and we have our facilities where we pick up persons dropped off at our airport. So I am just drawing an example that we can drop off persons at that port, an appropriate port within the country, a recognized port in Venezuela.

Mrs. Gandhi-Andrews: And I would agree with that. What we try to do and what we would have to do is ensure that their family members are notified when they are leaving and what port they would be arriving at, and then try to make arrangements. Because even those persons who are coming back, Trinidad nationals who are being deported from any country, those arrangements are made. We contact family members and whatnot. Even as immigration if we ask them when they return, where you are going to when you leave here, I do not know. We would not put them outside to the wolves. We would try to contact somebody for those individuals. So it does require some communication with their family members. And I agree, yes, we can drop them off at any port, but facilitate some communication with their Embassy and their family members that this is where these individuals are going, and we do advise the Mission when the individual is being repatriated

Mr. Forde: Final question, Madam Chair. Between 2016 to present, how many Venezuelans would have entered Trinidad and Tobago? I know we are dealing with detainees, but as the Immigration Officer I do not know if you have that statistics here?

Mrs. Gandhi-Andrews: I do not have that statistic in terms of those who would have arrived at a legal port of entry. I can certainly provide it to the Committee. I know that it was significantly less from my memory and I would just say that in 2014/2015 we had something like 60,000 plus Venezuelans arriving in Trinidad and Tobago, from 2015 you started to see the decline, and last year the figure would have been just around 28,000 Venezuelan nationals arriving at a legal port of entry. Of course, I would have no figure for those who would have entered illegally. I can only surmise, the numbers that we are seeing now that we are picking up who have entered the country illegally, we can safely say that larger numbers are arriving illegally into Trinidad and Tobago.

Mr. Forde: And more are being detained?

Mrs. Gandhi-Andrews: And more are being detained. Quite a number of them, I would say, have applied for asylum because the number of Venezuelans who have applied for asylum has gone from in 2016, 5 of them; to today well over 1,000, perhaps 2,000 Venezuelan nationals, and daily those numbers are being added to. So when they come in they go to the Living Water Community and they apply for asylum at the Living Water Community, and they are then referred to the Immigration Division.

Mr. S. Hosein: Thank you very much, Chair. Just going back to the detention centre itself now. I noticed in your submission you would have indicated the way in which the detainees are allowed to communicate with persons outside, that you would loan them their phones and they would make phone calls, and initially on entry into the centre they would be allowed—one phone call I believe?—one initial phone call. Now, what are the options available to those detainees who do not have a cell phone and would like to communicate with their attorney-at-law, friends or families? The second question is that most of the detainees who are not charged with any criminal offence, why do you all take their cell phones?

Mr. Belford: The detainees who do not have a cellular phone, they would be allowed the telephone privileges by the Immigration Officers on duty at the Immigration Detention Centre, and sometimes they are allowed use of telephones by fellow detainees. A telephone is considered contraband, that is why it is not something that is kept. For security reasons obviously, all these telephones come with video cameras and all that kind of stuff. The telephones are received as property when they come in, and on specific days they are given back these cell phones, they charge it and they make phone calls and whatnot, and then they return it to us.

Mr. S. Hosein: The Immigration Officer gives them a call, but who pays for that call?

Mr. Belford: Well, the State would be paying for that if they do not have any means of contacting family.

Madam Chairman: Wow, I want to thank the officials who were here and willingly submitted themselves to our questioning. I want to thank also members of the Committee who would have raised important issues as regards this enquiry proposer. At this point, I would like to invite Mrs. Singh, the acting Permanent Secretary Ministry of National Security to make her closing comments.

Mrs. Singh: Thank you, Madam Chairman. Madam Chairman and members of the Committee, I wish to thank you for the opportunity to be here and I trust that given our lengthy discourse this morning, the Committee as well as the viewing public have been provided with some clarity regarding the treatment of detainees at the Immigration Detention Centre and the importance of the detention centre as it pertains to the security of our country. I thank you again.

Madam Chairman: Thank you, and if I may be allowed just to give a little summary of what we would have discussed, findings, and some of the recommendations that would have come up.

1. There is a marked variance between the reports and the conditions at the IDC as expressed by the Ministry of National Security, Immigration Division and other civil organizations.
2. No independent assessments have been done on the conditions at the IDC though it is acknowledged as best practice.
3. Police officers are used as detention officers. They are not prison officers, however, they receive developmental training as well as medical and psychological assessment.
4. Detainees who present symptoms of mental illness are referred to a medical doctor, then a psychiatrist if necessary, and they also can be separated from the general detainee population if necessary.

5. Detainees released from prison—whether they are ex-convicts in that case—are in general circulation with the detainee population, and though this is recognized though as not being the best practice at this time.
6. A detainee classification policy is currently being developed.
7. The most common breach of the Immigration Act is split almost evenly between those who have overstayed their time, and those who were working illegally, and those who enter the country illegally.
8. The best practice of the 1:8 ratio of detention officers to detainees could not be substantiated by the figures submitted in the response, but those revised figures will be submitted for that substantiation.
9. Detention time average has decreased from six months on average to four weeks due to increased levels of staffing and attention to the process.
10. Increases in the cost of supplying food to detainees have been explained by increases in the cost from the supplier, and that has resulted in an increase in expenditure in the food provisions at the institutions.

Very important to Mr. Forde. *[Laughter]*

11. Detainees are advised of their right to have legal representation, also all Embassies and High Commissions are informed. However, legal aid is available when required.
12. Complaints are funnelled through detention officers which is not a robust enough system, nor does it have enough independence to be considered fair.
13. There is an issue with detainees who refuse to leave the country willingly. Some procedure must be developed to allow such persons to be deported expeditiously.
14. All refugees as recommended by the UNHCR are immediately released from the ICD. Once they express that they are seeking asylum and that is the detainees, they go through the standard operating procedure to be recognized as refugees with UNHCR. This needs to be formalized so that an international agency is not the body determining final refugee status in Trinidad and Tobago. Legislation is currently being drafted to deal with this matter of refugee status.
15. Persons are repatriated by boat to countries in close enough proximity to Trinidad and Tobago where possible.
16. The number of Venezuelan detainees is increasing as the number of Venezuelan nationals entering this country illegally increases.
17. Chartering an aircraft for repatriation of detainees from the African continent, as has been done in the past, is cost prohibitive, and a route has been identified which should result in those detainees being repatriated more efficiently in the future.
18. There may be too much responsibility assumed by the Immigration Division for deported persons when they reach their homeland. It is suggested that they can be dropped off at a recognized port in their country and then the responsibility can be transferred to their home country or their families for their internal transport.

A couple recommendations:

1. The IDC should initiate as soon as possible an independent visit by a Human Rights Association to assess their compliance with the human rights treaties to which we are a signatory.

Another recommendation:

2. The detainees' classification policy should be developed as soon as possible, and if at all possible by the end of this calendar year;
3. All efforts must be made to separate ex-convicts from the regular detainees who have simply violated immigration laws; and
4. The IDC should develop an independent complaint system for detainees.

That being said, I want to thank the officials who were here with us today, I want to thank our viewing and listening public, and really to wish you, at the end of this discourse, thank you for being and answering all our questions and we do hope that you enjoy the rest of the day. This meeting is now adjourned.

12.48 p.m.: *Meeting adjourned.*

VERBATIM NOTES OF THE TWENTY-FIRST MEETING OF THE JOINT SELECT COMMITTEE ON HUMAN RIGHTS, EQUALITY AND DIVERSITY HELD IN THE HAMILTON MAURICE ROOM (MEZZANINE FLOOR) (IN PUBLIC), OFFICE OF THE PARLIAMENT, TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON FRIDAY, SEPTEMBER 14, 2018 AT 10.40 A.M.

PRESENT

Dr. Nyan Gadsby-Dolly	Chairman
Mrs. Glenda Jennings-Smith	Vice-Chairman
Mr. Dennis Moses	Member
Mr. Kazim Hosein	Member
Mr. Saddam Hosein	Member
Dr. Dhanayshar Mahabir	Member
Ms. Candice Skerrette	Secretary
Ms. Khisha Peterkin	Assistant Secretary
Ms. Aaneesa Baksh	Graduate Research Assistant

ABSENT

Mr. Esmond Forde	Member
Mr. Barry Padarath	Member

MINISTRY OF NATIONAL SECURITY

Mr. Vel Lewis	Permanent Secretary
Mrs. Charmaine Gandhi-Andrews	Chief Immigration Officer
Mr. Dennison Aley	Immigration Officer IV, IDC
Mr. Kent Downer	Senior Emergency Medical Technician
Mr. Keith Renaud	Director, Office of Law Enforcement Policy (OLEP)
Mr. Patrick Cunningham	Mgr. Programme Mgt. Unit

LIVING WATER COMMUNITY

Ms. Gina Maharaj	Legal Officer II
Mr. Ganesh Rampersad	Legal Officer I
Ms. Allyson Weekes	Protection Advocate for Detention

Madam Chairman: Good morning everyone and welcome. It is my pleasure to reconvene the 21st meeting of the Joint Select Committee on Human Rights, Equality and Diversity and to welcome everyone who is here.

This public hearing is being broadcast on Parliament Channel 11, Parliament Radio 105.5 FM and the Parliament's YouTube Channel, *ParlView*.

I want to welcome the officials from the Ministry of National Security who are here with us, as well as the officials from the Living Water Community.

My name is Nyan Gadsby-Dolly and I am the Chairman of this Joint Select Committee. I now invite my members to introduce themselves.

[Introductions made]

Madam Chairman: May I now invite the officials from the Ministry of National Security, followed by the officials from the Living Water Community, to introduce themselves.

[Introductions made]

Madam Chairman: Thank you so much, and it is a pleasure to have you all here with us this morning. This morning we are here to continue discussions into the treatment of detainees at the Immigration Detention Centre. Just by way of background, on April 06, 2018, the JSC on Human Rights, Equality and Diversity held an enquiry into the treatment of detainees at the Immigration Detention Centre in Santa Rosa and Aripo.

Further to this, on June 01, 2018, the Committee visited the Detention Centre at Aripo. Based on the substance of our first public hearing, the discussion that ensued and the observations that were made on the site visit, in addition

to further submissions from agencies such as UNHCR, the United Nations High Commissioner for Refugees and Living Water Community, and the Ministry of National Security in the Immigration Division, the Committee has asked for another public hearing to clarify certain issues which we encountered. So we are happy to have you here to further this discussion to make our report more fulsome.

Our objectives of this enquiry are to determine the treatment of detainees at the Immigration Detention Centre and also to examine the physical conditions and the Immigration Detention Centre which would have underpinned our site visit.

We received written submissions from the Ministry of National Security, the Living Water Community, United Nations High Commission for Refugees, Office of the Ombudsman of Trinidad and Tobago and the Emancipation Support Committee.

The viewers and listeners who are following today's public hearing, can send questions related to today's topic via email at parl101@ttparliament.org, that is Parl, P-A-R-L101@ttparliament.org, on [facebook@ttparliament](https://www.facebook.com/ttparliament) and on [twitter@ttparliament](https://twitter.com/ttparliament). I would now like to invite brief opening statements from Mr. Vel Lewis, the Permanent Secretary of the Ministry of National Security and Ms. Gina Maharaj, Legal Officer of the Living Water Community. Mr. Lewis, and then we will have Ms. Maharaj.

Mr. Lewis: Thank you very much, Madam Chairman. The Ministry of National Security welcomes this opportunity to address the concerns of the Joint Select Committee on Human Rights, Equality and Diversity in your continued enquiry into the treatment of detainees at the Immigration Detention Centre.

Permit me, Madam Chairman, to state that migration into Trinidad and Tobago is governed by laws that set out, among other things, who can legally reside in the country, who are prohibited immigrants or permitted entrance, the criteria for remaining in the country legally, offences and penalties and the process for detaining and deporting those who have breached the laws.

In effecting those laws the Ministry of National Security remains committed to ensuring that all persons are treated fairly and with dignity. To ensure that foreign nationals who have run afoul of the immigration laws are not kept in prison facilities and treated in the same manner as criminal offenders, the Government in November 2009, established the Immigration Detention Centre to house foreigners in breach of the Immigration Act. The facility has a capacity ideally of 150 inmates which is broken up into approximately 115 males and 35 females.

It is recognized that detainees come from various countries around the world and several obstacles to their repatriation can arise, including a lack of documentation, an inability to identify the detainee, lack of cooperation by detainees and the demands of airlines and transit countries.

While the Immigration Division has improved its processing time from detention to the order of removal, these obstacles can prolong the length of stay at the Immigration Detention Centre. Over the last year the Ministry of National Security has expended considerable sums to upgrade the Detention Centre and to improve the living conditions of the detainees while they are processed through to removal to their home country. More work is currently ongoing to ensure the security and safety of the detainees as well as the employees, and of course to improve the living and working conditions at the centre.

The team here today, Madam Chairman and members, is willing and happy to address any concerns that the Committee may have at this time. I thank you very much.

Madam Chairman: Thank you. Ms. Maharaj?

Ms. Maharaj: Madam Chairman, members of the hon. Joint Select Committee and members of the Ministry of National Security, Living Water Community would like to thank you for the opportunity to be here today on this further enquiry into the treatment of detainees at the Immigration Detention Centre.

The Ministry for Migrants and Refugees at Living Water Community works with vulnerable migrants and refugees who are otherwise known to us as "persons of concern". Under this mandate, Living Water Community offers services such as legal, health care, assistance to victims of trafficking and unaccompanied minors, offering protection to these persons of concern.

One of the fundamental aspects of this protection relates to detention. The detention of asylum seekers should

normally be avoided and be a measure of last resort. Detention should be necessary, legitimate, reasonable and proportionate; the right to liberty and security of the person, are fundamental human rights reflected in the Constitution of the Republic of Trinidad and Tobago and the International Prohibition on Arbitrary Detention.

Whilst we accept that for reasons of national security detention may at times be necessary, the same ought not to be arbitrary or unreasonable. The International Detention Coalition has been able to identify over 250 alternatives to detention in 60 countries worldwide. Alternatives are significantly more cost effective than custodial detention. One alternative to detention that has been practised in Trinidad and Tobago for asylum seekers and other migrants is the use of the order of supervision document which provides reporting mechanisms for persons who are illegal within the country. Alternatives must also be considered and detention ought to be avoided or considered as a last resort for the elderly, pregnant, sick, handicapped and mentally ill, where safety or security is not an issue.

It is important to note that the deprivation of a person's liberty must be subject to minimal procedural safeguards such as the option to contest a detention. Also, a periodic review of the detention to ensure that a lawful detention does not eventually become arbitrary, should also be conducted.

Furthermore, where detention is necessary, persons of concern or asylum seekers ought to be treated with dignity, respect, have access to proper medical care, be afforded legal representation, access to asylum procedures and be protected from deportation otherwise known as "refoulement". We thank you.

Madam Chairman: Thank you so much. We will now begin our questioning. Let me remind all members and all officials to direct your questions through the Chair so that we will have a very orderly process this morning as usual.

I would like to begin by emphasizing, for the benefit of our listening and viewing public, that this is our second public hearing on this matter and therefore there may be some issues that we will not rehash, having gone through those before, and that what we are really trying to do is to seek clarification on some of the issues that we believe bore further investigation.

So let me begin by asking for some clarification on this order of supervision process. On our site visit we were speaking with some of the officials, and recognized from their submissions to us that there were quite a number of people who were not legally in the country but were not detained at the Immigration Detention Centre. Could we get some clarification on if there are numbers to assist us with respect to how many people are illegally in the country—have been discovered, how many are detained and what is this order of supervision process and how that is treated with in the context of illegal immigrants?

Mrs. Gandhi-Andrews: Thank you, Chair. What we have seen recently is that there has been an increase in the numbers of persons who are entering illegally. The actual number we will not be able to give because a lot of the persons who have entered we know nothing about.

From what we see at the Detention Centre, those persons, we have currently just about 110 detainees at the Detention Centre, actually 118, forgive me Chair, as at this morning. Of that number at least 75 per cent of them would have entered the country illegally. Of the numbers, most of them are in fact, Venezuelan nationals and apart from entering illegally, they have no documentation.

So that is just a synopsis of what, I can tell you, what we have been seeing, and over the last year most of the persons especially of a Venezuela nationality have entered the country illegally and that number has been growing.

So far this year we have just about 19,000 Venezuelans entering at a legal port of entry, and of that number at least 17 per cent of them have overstayed their time. Some of them we have in detention. Some who would have been able to be assessed and have some form of—some place to stay, somebody who is willing to support them while they are here, we would consider the risk and we would put that person on an Order of Supervision.

An order of supervision really is akin to bail. So that depending on the person who is in front of us, and the nature of their breach of the Immigration Act, the Chief Immigration Officer would be able to determine whether or not that person can be released on an order of supervision and under what terms and conditions. More often than not we would release those persons when they post a security bond, which is to offset the repatriation of the individual, should they be deported, and other reporting requirements, so: a place to stay, who is supporting them and we would take telephone contacts. We would have them report at particular periods of time. It could be every month, it could be every week, it just depends on the nature of the breach.

So the order of supervision really is to facilitate those persons, not putting them in detention. We have currently just about 1,700 persons on orders of supervision as compared to 118 persons actually in detention. The persons who are actually in detention are those persons who the officers in the Enforcement Unit may have considered to be high risk or they are awaiting some sort of identification for them, and somebody to come forward to say, “Okay yes, we would be willing to support them”, they are willing to post the security bond, et cetera. So it is not an automatic thing to put somebody on an order of supervision.

Madam Chairman: Could I just ask a follow-up there? That security bond, does it vary in the amount depending on the circumstances? What is a typical range?

Mrs. Gandhi-Andrews: It varies by nationality, and it takes into consideration the cost of repatriation of that person to their home country. So for example, somebody from, let us say Guyana, might be paying \$2,000 because of the cost of a ticket to return to their home country, as compared to somebody who might be from an African country where the cost is closer to \$30,000 to purchase a one-way ticket to their home country. That is just really the cost of the airline ticket. It does not take into consideration the actual cost of detention or if we have to pay for escorts to take those persons back to their home country.

Madam Chairman: Sen. Hosein and then Sen. Mahabir.

Mr. S. Hosein: Thank you very much, Chair. Through you, Chair, of course, with regard to the order of supervision these persons would be either before a special enquiry of the Immigration Centre. Now, can you give us an estimation of how long these specific cases take to be completed?

Mrs. Gandhi-Andrews: It varies and it depends on what documentation we have in front of us. So if the person does not have identification, if we cannot verify their nationality there is a process for that, going through Foreign Affairs to get to their embassy to determine if that person is in fact a national of that country. So it starts with identifying them.

Then of course, it depends on the nature of breach. Are we prosecuting them for the breach of the Immigration Act? And if for example, they have entered illegally and they are taken before the court, they are fined, they are given time to pay the fine. Therefore, we await the time for them to pay the fine, after which if the fine is not paid then a warrant is issued for them to serve their time. So they must serve their time first. And then following that is the whole process now of their repatriation. It depends on their cooperation as well.

So that, a number of them either do not want to sign documents, if we have to acquire a visa for them to transit through a particular country, and we cannot sign the visa form on their behalf. So we have to wait on the detainee to really cooperate with us before we can actually do a repatriation. Then, it is either they provide a ticket for their repatriation or the Government has to provide a ticket for their repatriation. So then we need to seek approval from the Permanent Secretary to purchase a ticket for their repatriation. Some of the airlines require escorts for the detainees, and those escorts are usually police officers. So we have to get permission, and the police service will identify which officers and give approval for those persons, and of course, acquiring the funds and what not.

So it varies; the timeline varies. If everything is smooth and we have all of the documentation, within a month at maximum that person can be removed from the country. In some cases it has been as little as a week.

Mr. S. Hosein: I saw that there is a large number of persons on the supervision, 1,700 you mentioned. How many of these special enquiry officers do you all have at the Division to manage these matters, because it is quite a lot?

Mrs. Gandhi-Andrews: Right now, the Minister has actually deemed 19 people as special enquiry officers. The challenge with that is that you also have to have a stenographer to take the Minutes, and we really do not have stenographers in the public service, so that poses a challenge. We have two, at least, three dedicated persons. Yes, strangely enough I only have one stenographer on staff right now; two to be exact. So that, it is a challenge for us. We have two dedicated officers doing at least five special enquiries every day, Monday to Friday. Of course, if a stenographer stays home or somebody falls ill or what not, that presents a challenge for us, or anything else. But we have at least two and at least five special enquiries going on every single day. From time to time we would do what I call a blitz and perhaps one week call a lot of special enquiry officers together, and once we can identify stenographers, persons to do the Minute taking, and we would do at least 100 special enquiries. We have done it on two occasions already.

The persons who we have had out on orders of supervision are really not high risk, and they tend to be persons who may have simply overstayed their time. And the process for that—and it depends because there could be different reasons for them overstaying their time. Some of those persons we may not put before a special enquiry officer because under the legislation, the Chief Immigration Officer can determine if the person will appear before a special enquiry officer depending on the case. Some of them we may simply give them or allow them to leave the country.

Mr. S. Hosein: You see, the problem I am having is that—you could correct me if I am wrong—most of the cases are actually illegal entries in Trinidad, and the maximum imprisonment for that is about six months, I believe, a fine or in alternative six months. Now the only issue Ma'am, I am having, is that whether or not these persons who are detained at the centre, whether they stay for a period of over what they would actually be sentenced to. Has that happened in any instance?

Mrs. Gandhi-Andrews: I am not sure what you are referring to, and in terms of overstayers, we do not prosecute overstayers.

Mr. S. Hosein: No, what I am saying is that if the maximum fine for X offence is six months—

Mrs. Gandhi-Andrews: No, it is not six months. It depends on what it is.

Mr. S. Hosein: So I am saying illegal entry.

Mrs. Gandhi-Andrews: So if it is an offence—illegal entry carries a fine of \$50,000 or three years' imprisonment. That is for a first offence. For a second offence it is \$100,000 or five years' imprisonment. So it is not six months.

Mr. S. Hosein: Okay, I am corrected. But are there any instances of persons staying beyond what would normally be imposed on them?

Mrs. Gandhi-Andrews: It can be but it depends again on the level of cooperation. So for example, and we would have indicated to the Committee that one person would have been there for four years and eight months. In 2014 we attempted to repatriate that individual and we had chartered an aircraft for his repatriation. Just before he was actually boarded, he applied for asylum. So he could not be repatriated because he had to go through the refugee status determination process. His application was refused. He appealed, it was again refused by UNHCR. We attempted a second time to repatriate him. He did not want to cooperate. In fact, when they got to the airline, he started acting up and he was refused boarding. And earlier this year, we again attempted to repatriate that individual, and he filed an injunction on the day before he was to board the aircraft. So that matter is still ongoing. In fact, that person is now in prison because he has been charged for false imprisonment. So there are a number of situations and it is really on a case by case basis that we deal with these matters.

Dr. Mahabir: Thank you very much, Madam Chair. I visited the Immigration Detention Centre and I spoke to detainees from West Africa, Venezuela and a few other countries. And I was struck, Madam Chief Immigration Officer, with the notion of the security bond. One of the detainees from West Africa, who follows the Parliament channel very closely, I chatted with him and so on, I thought he was a reasonable sort. I am simply wondering whether, if someone were to post a security bond for that individual whether it would be relatively easy for him to be released and to go through whatever legal channels are available to him, or is it that there are issues with the actual posting of a security bond?

Mrs. Gandhi-Andrews: Well, the posting of the security bond is only one aspect of it, and the risk involved with the particular individual, I am not sure which one it is, so that I can probably give you the background of that person's detention. It could be for a criminal offence, and if it was a criminal offence then certainly he would not be released. So there are a number of issues.

Dr. Mahabir: I need to interject. We understand everything about criminality. Once you have broken the law and you have committed a criminal offence, a lot of your rights have been suspended. Someone has simply violated the immigration laws of Trinidad. He is at the IDC. He has no criminal record except that he has violated the immigration laws of Trinidad. The question is: With respect to the security bond, is it a straightforward issue where someone in Trinidad who is willing to post that bond for him, the value of which has been determined by your office, can post it with relative ease and the person can be released?

Mrs. Gandhi-Andrews: Yes and no. Yes, in that once they post the bond, once the person, whoever it is posting the bond is giving an undertaking that they will be supporting the individual once they have a place to stay and everything

else, certainly we can release that person on an order of supervision, all things being equal.

If it is—it is not just simply a question of posting bond, it is the other things that go with it. That, like I said, the circumstances surrounding his arrest and detention and what not, and that is where the no will come in. From time to time the officers in the Enforcement Unit will go back through the listing to see if anybody is willing to post a bond. Some people say yes, they will post a bond and when the time comes to actually post the bond they do not.

11.10 a.m.

So, we can and if somebody comes forward and says, “Yes, I am willing to support this individual, I am willing to post the bond, I am willing to support this individual while they are here. This is where they will be staying.”—and whatnot, then certainly we can consider releasing that person on an order of supervision.

Dr. Mahabir: A final question on that. I spoke to an individual who says he has a child in Trinidad and Tobago. I do not know whether he was officially married, but that he has a child. What is the policy of the immigration department with respect to keeping the family intact? Is there any consideration at all that special considerations will be given if a detainee has a child or children or has a companion or is married? What are the avenues available to him or her when to be released?

Mrs. Gandhi-Andrews: Again, it depends on the circumstances of his detention. We try as far as possible with those persons who have families, especially small children and whatnot, to try to release those persons on an order of supervision. Of course, the onus is on that individual to prove that he is, in fact, the father of the child by way of the birth certificate and whatnot. Right? Depending on what the circumstances are relating to his particular case, he may be detained. More often than not, we try to release those persons once they can post the bond, once the companion, the spouse or whoever it is, is willing to support them, and can show where they are able to support them. So, again, it depends on that particular case.

Dr. Mahabir: Madam Chair, just a last question on this. Notwithstanding criminal offences, I understand that there are criminal issues involved that will prevent you from making any order with respect to release.

The final follow-up that I have on this is, whether the security bond, because I imagine repatriation to West Africa may require security bond of maybe \$40,000, whether the Immigration department will accept a bond posted by organization as opposed to an individual? If an NGO were to say, “We are willing to post the bond for this person”, will you accept that posting as bona fide?

Mrs. Gandhi-Andrews: Yes. And we have done it before. So once the bond is posted by any individual, an individual, an organization, once it is there then, and they give that undertaking to support the individual, then yes we can release on an order of supervision.

Dr. Mahabir: Very well, thank you.

Madam Chairman: Just a quick question on clarifying the order of supervision. Is that valid for a particular time? What exactly is the process? Can someone exist in our country for many years under orders of supervision that keep being renewed? What is the exact process?

Mrs. Gandhi-Andrews: The order of supervision really is during that period of time when that individual is going through that process of us determining whether they are deportable or not, and the actual removal from the country thereafter. So it is intended to be a short-term arrangement where they will report to Immigration whether it is every month, every week or whatever is the consideration for that particular individual.

There are some persons who have been on orders of supervision for a year, two years. And, again, that depends on the circumstances of that particular individual’s case. There are some persons who have filed for judicial review and whatnot, and those persons remain on orders of supervision until such time as the judicial review matter is determined by the court. So, you find that those persons could remain on an order of supervision for a very long period of time. So it just depends on the circumstances of that particular case.

Madam Chairman: And just one further clarification. There are two types of illegal immigrants, if I am understanding clearly—people have entered illegally and those who overstayed their time. Are those the two basic broad categories?

Mrs. Gandhi-Andrews: Yes. I would say that there two types. Everybody who is in breach of the Immigration Act is an illegal immigrant. Somebody who have overstayed their time, they fall into that category and can be deported. Right? So it just depends on which section of the law they are in breach of.

Some of them carry, under the offences, a higher penalty. Some of them, for example, working without a work permit carries a smaller penalty of \$1,000 or however long the magistrate decides that they would give an equivalent time in prison. So, once they are in breach of the Act so, yes, there are a number of things.

One, there is illegal entry. Once there are also persons who are producing fraudulent documents; tampering with a document. There are those who have overstayed their time, there are those who might have applied for work permits or applied for permanent residence, it is not granted, and then they simply disappear, they do not leave, and then, of course, they fall into that bracket of overstaying their time in the country. So, yes, there are broad categories, but there are little peculiarities inside of there for all of them.

Madam Chairman: All right. And if I am understanding clearly, those who are generally given orders of supervision may be those who would have overstayed their time because they would be able to produce documentation, ID and so on and to be supported. And those who enter illegally, the ones that enter without any documentation especially, are those the ones who would generally be detained at the Immigration Detention Centre?

Mrs. Gandhi-Andrews: More often than not. Yes. Now, even with the persons who have overstayed their time, the consideration is, where they are staying, how are they being supported, have they been working illegally? So those would be some of the considerations. Do they have the opportunity or the wherewithal to post the security bond? So even with the over-stayers there might be some of the over-stayers in detention because they might be a risk there.

There are a number of persons who may be put on orders of supervision who have not reported to us and have just disappeared. They may be still in the country, they may have left illegally. So that is one of the risks when we put somebody on order of supervision whether or not they will continue to report to us during that period of time on the date that they are to report to us. So it just depends on when they assess the risk, whether or not they will release them on an order of supervision.

Madam Chairman: The delegates from Living Water wanted to make a contribution here?

Ms. Maharaj: Just to note that we do have some asylum seekers and persons of concern in our community who are also on orders of supervision.

Madam Chairman: Okay. Sen. Hosein.

Mr. S. Hosein: A question to the Living Water. You said that there are asylum seekers on orders of supervision. If I am understanding correctly, persons who are placed on orders of supervision are in breach of the Immigration Act in some manner. Right? Persons who seek refuge in Trinidad and Tobago, why are they placed under orders of supervision?

Mrs. Gandhi-Andrews: I think I will have to take that one. The fact is, there are no laws in Trinidad and Tobago to deal with asylum seekers and refugees. And the current Immigration Act does not cater for asylum seekers and refugees. More often than not, the asylum seeker is in some way in breach of the Immigration Act. They may have entered illegally, they may have overstayed their time in the country. And therefore, the only way for us to release them from detention would be to place them on an order of supervision while their refugee status determination is being conducted by the UNHCR.

Mr. S. Hosein: Trinidad and Tobago, we are signatories to the 1951 convention on refugees. And I read Article 31 that states that:

“The Contracting State”—which is Trinidad and Tobago—“shall not impose penalties, on account on their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1...”

So, is it that we not complying with our international obligations pursuant to Article 31 of this convention?

Mrs. Gandhi-Andrews: Well, we are signatory to the convention. We have not brought any laws, we have not brought that under the domestic laws of Trinidad and Tobago. So while we have started since 2014 to address that

issue, and we have been working closely with Living Water Community and UNHCR to put measures in place, there is a draft policy which is currently being reviewed. There is draft legislation which is also currently being reviewed. So, steps are being taken; however, there is still no domestic law specifically to treat with those individuals, and it is because of that article in the convention, which is why we have had to find a way to release them from detention. So, just saying that they have an asylum seeker's certificate and okay, yes, they are walking around with this, does not protect them really.

So that it is a matter that is being addressed. We have all identified some of the issues. We have had standard operating procedures, we have regular monthly meetings of all of the stakeholders to address some of the issues. So for us from Immigration dealing with these persons, there is nothing in my legislation that I am charged to enforce that really caters to asylum seekers and refugees who are in breach of the legislation.

Mr. S. Hosein: My only concern is that, will Trinidad and Tobago, if there is no domestic legislation, we should be guided by our international obligations. And if we are signatory to the treaty, why are we not enforcing these provisions of the Articles, because as far as I am aware we have no reservation with regard to Article 31.

Mrs. Gandhi-Andrews: Granted. But at the same time I am bound by my Immigration Act, and therefore, I require something a little higher than me in order to move forward. But like I said, we have been meeting regularly, all of the stakeholders, we have gotten to a point where there is draft legislation, where there is a policy that is being reviewed by Government, and therefore, steps are being taken to address the issue.

Like I said, from where I sit and being bound by the Immigration Act, sometimes I find myself “between a rock and a hard place”. But in order to give effect to the convention and to ensure that we are not in breach, we have tried to apply the provisions of the order of supervision to ensure that they remain in the country, so that if they are stopped anywhere then they can produce the order of supervision. Not everybody is on the order of supervision, and there are challenges that we work with the Living Water Community and UNHCR to address those issues.

Madam Chairman: Could I ask, in the context of what you just read out, there were provisions though with respect to who should be included in that in terms of fear of life and so on. If I may ask of the legal officer from Living Water Community: How is that determination made with respect to, because we cannot be in breach if the person is not in fear for their life or that kind of, it is not war or that kind of circumstance. How then do we look at ourselves in terms of whether we are in breach or not?—because we are only in breach if we put people under restrictions when they come from countries where there is war and there is fear for their life or something like that. What is your view on that?

Ms. Maharaj: Well, an asylum seeker, and just to reiterate the definition, is someone who is fleeing from a country where their life may be in danger or they have a fear of return. The 1951 convention, as Mr. Hosein mentioned, protects persons of concern from non-penalization with regard to illegal entry. But due to the fact that Trinidad and Tobago does not have any laws in place to protect these refugees, and using the Immigration Act as legislation to guide the laws, there is that sort of discrepancy in terms of trying to meet our international obligations. But as Mrs. Charmaine Gandhi-Andrews mentioned, we are working together with the draft legislation at our monthly stakeholder meetings to ensure that these persons of concern who do enter illegally and who are asylum seekers are afforded some sort of protection mechanism.

Madam Chairman: Mrs. Jennings-Smith.

Mrs. Jennings-Smith: I want to go back the treatment of the detainees at the IDC because on our visit there we were bombarded with a lot of issues that the detainees were experiencing. And I want to ask: What mechanism is in place or what procedure is in place for a detainee to have an audience with a member of staff for situations when they want to find out their positions? Because I realize that some of these detainees, they are there for over two years, and they do not have an understanding of what is happening for them. They do not know what is the next step. They do not know how they can access information as to their status in there. I want to know, do you have a process, a procedure?—especially when you have female detainees. Who do they speak to and how does it happen? Could you explain it to us?

Mr. Lewis: Thank you, member. And through you, Chair, I just want to say, I am going to ask Mr. Alely to comment on that question a bit. But before Mr. Alely comes in, I just want to state that a lot of what—we have discovered that a lot of what we understand would have been said to members of the Committee by detainees, I want to place on record that some of those things, a lot of what has been said is not really true. It is not really reflective of the Act, of

the situation at the Immigration Detention Centre. And so, I think I want to ask Mr. Aley to comment on the question and to respond to the—

Madam Chairman: Before Mr. Aley responds, I want to make it very clear that when the Committee goes on a site visit, we would have a lot of information coming to us from different sides, from the sides of the administrators, as well as from the sides of the detainees, and that is the purpose of us coming here to clarify some of these issues. Because truth is a subjective thing.

The view and the reason why we go to these site visits is because we want to see, we can sit here and speak, but when we go there and we, not only hear from the inmates, but we make observations, it further informs on what we have been presented with at the start.

So, I just want to make that clear, that when we go out and submissions are made to us especially from a situation of detention or if it is a prison and so on, our remit is not necessarily to accept anything as truth, and that is why we investigate, we ask the questions to get to the bottom of the issues. So, I do not want it to be presented as though we are taking anybody's word for truth. What we are trying to do is to flesh out all of the issues so that we can come to some determination in our recommendations for the report. All right? So, I just wanted to say that before Mr. Aley makes his comment.

Mr. Aley: Thank you, Madam Chair. The procedure is, the detention supervisors, they would make a list of the names of the detainees who have issues, all the issues, they would have it on a list. They would come to me daily. I would personally interview them, seek—in some cases they need a phone call or they need to just enquire about their immigration status, what I would do is communicate with Port of Spain in the enforcement unit because they would have all the information, the files and so forth; and in some cases the list is very long. So what I would do, like on a Saturday, I would set aside a Saturday and go into the centre, listen to all the enquiries, listen to all their concerns, and then I would forward those concerns to Port of Spain for feedback.

Madam Chairman: If I may, just to follow up on this question, I am sure Mrs. Jennings-Smith has some other questions on that. When you said you set aside a Saturday, it sounds almost like an informal arrangement, and it reflects the general feeling of what was said by quite a number of the persons there. Is there a case officer that deals with a certain number of people that they can refer to get regular updates? Is there a set time and procedure? If I understand correctly, there should be an immigration officer available every day. Is that person there at every time? Is there a particular time of the day? What are the actual structures put in place for this?

Mr. Aley: Okay. We have detention—we have immigration officers who are rostered for duty there from 6.00a.m. to 7.00p.m., normally they are junior officers. The detention supervisors would, again, inform them that a detainee requires some information. I, as the most senior officer, would enquire what the problem is. If I can help, I will take the information from them and then I will contact the investigation in Port of Spain on a daily basis; that is on daily. So, I try my best to see detainees daily so that I can get to give them some resolution to their matters.

Mrs. Jennings-Smith: And exactly you are taking me right where I want you to be; that reference you are speaking about Port of Spain. Every time you speak of a person's case or an issue, you refer to Port of Spain. And that was a concern we had when we were up there, that information was not readily available.

For example, if John Brown had a problem and you wanted to find out more about what is going on or what is his status, you had to call Port of Spain. What plan is there in place to have information readily available at the Immigration Detention Centre?

Mrs. Gandhi-Andrews: Chair, if I may. The enforcement unit at all times communicates with the detainees, advising them what are their charges. They produce documents to them, they are ordered to show cause outlining all of the challenges, all of the immigration infractions, and they would also tell them what is the date for their special enquiry.

A lot of the times the detainees themselves after the whole procedure, let us say, they go before the special enquiry officer, their matter is determined, they are either given voluntary departure or they are ordered deported. The next stage after that is the purchase of a ticket to leave.

During the special enquiry process they are asked whether or not they can purchase a ticket to leave or whether they require the State to purchase a ticket for them at the enquiry. More often than not they say, "No my family will buy a ticket for me", and we would await that. They will then say, yes or no, they cannot buy the ticket

for this, they can get it next month and whatnot.

I have instructed my officers that after three weeks if no ticket is provided for them to leave at the end of their special enquiry process that we will approach the Permanent Secretary to purchase a ticket for their departure. And they are always informed of that by the officers in the enforcement unit, because the officers in the enforcement unit are the case officers for all of the detainees. They are all assigned, once they are detained, those officers in the enforcement unit are responsible for them from the time they are detained and interviewed to the time of their repatriation.

Any detainee who wants to see anybody, they can either be brought to Port of Spain on a daily basis because, every day as I mentioned, detainees are brought to Port of Spain for a special enquiry. They can come, they can make enquiries as to, well what is the position with their ticket. Well, “We have written to the Permanent Secretary to get the ticket. As soon as we get the ticket and the date, we will advise you.”

So it is not so much that the officers are not informing them about their matters, because when they get in, once they are detained, they are given a letter that states the reason for their arrest and detention, whether they are to go to court. They will let them know the date that they are taking them to court. They are all asked whether they want an attorney present.

So there are times when they may think that it is long process or we are not getting enough information, but there is no information to give at that point in time because it is either they have already been given the date for their special enquiry or we are awaiting a ticket for their repatriation, either from them or we are awaiting the approval from the Ministry to purchase the ticket for them.

So when they say that they do not get enough information, sometimes you wonder, well what other information they want, except that this is the date that you are going to depart. We are awaiting this matter, they are awaiting the ticket. And some of them say, “Well no, my family cannot meet me on that date, so could you put it off another day.” So there are different circumstances for all of them.

Granted, there might be some of them, and I am not saying that maybe some of them get no information, and if they get no information, sometimes it is because there is no information to give from the last stance. Sometimes we are awaiting travel documents from their embassy, some kind of identification document for them before we can move forward, even with a special enquiry. So there are different circumstances for each case in the detention centre.

And the officers are there all the time. If they want to make a request, if they want to make a telephone call, if they want any information, they can, in fact, the officers in the detention centre will pick up the phone and call the enforcement unit to find out what are the circumstances. Right? So there are a number of things that will take place, and there are number of circumstances, it just depends on each case.

Madam Chairman: Minister Hosein.

Mr. K. Hosein: Thank you very much, Madam Chair. Ms. Maharaj mentioned a while ago about asylum seekers. Are we currently holding any asylum seekers as detainees? And what is the plan for their release?

Mrs. Gandhi-Andrews: Sometimes we do not know that they are an asylum seeker. A lot of the times only when they get to the point of appearing before a special enquiry officer that they suddenly produce an asylum seeker’s certificate. We have been trying to work with the Living Water Community and UNHCR to ensure that at all times we know if there are asylum seekers at the detention centre.

Again, it depends on the circumstances of the case. If the person has to be charged for whatever offence, then they will not be released from detention, and it depends on what that breach might be.

There are some of them who are in detention for having been convicted of criminal offences. They have applied for asylum, those persons will not be released. So, again, it depends on the circumstances. More often than not, when we are notified that this person is an asylum seeker, and they can be released after they post the bond and whatnot, we will release the asylum seeker. Again, it just depends on the circumstances of that particular case.

Mrs. Jennings-Smith: Well, that is the said question I asked a while ago. Your records and information, for example, if one were to ask you at this one point in time—do you have any asylum seekers at the detention centre?—can you answer that question? Can you tell us how many?

Mrs. Gandhi-Andrews: I do have the list here, and we have a list that is updated daily of—

Mrs. Jennings-Smith: If you have it there, could you say it?

Mrs. Gandhi-Andrews: Well, I will have to go through the 100—

Mrs. Jennings-Smith: Is it quantified? Like, what I mean is that, do you every week give a summary of what is happening there that, you know. And we found that as an issue, because every time a person brought up something and we asked an immigration officer present there, he would say that they have to call Port of Spain, they have to call Port of Spain to get. And I am referring to the comments of Mr. Aley when he said that, you know, there are so many issues to deal with that he leaves off his Saturday.

So that I want, you know, just in my mind, I am thinking you are going there on Saturday, and you seeing 10 or 100 people. So when you seeing those 100, how do you get the information to speak to them. Do you get the information beforehand and come and have those interviews with those 100 people in reviewing those cases?—because that was a main concern. Your recordkeeping, how do you manage it, how do you update it so that you can, you know, up to date real-time information for persons who are there, not as prisoners, but who are detained?

Mrs. Gandhi-Andrews: Once we get the information from the Living Water Community or UNHCR advising us that these persons are asylum seekers and they are in possession of asylum seekers' certificates, because we have set up an ad hoc refugee unit that liaises all the time with the Living Water Community, and they are also part of the enforcement unit. So that that information once we have it, they will liaise, the refugee unit with the enforcement unit. The officers there, these persons have asylum seekers' certificates. Again, they will go through their files to determine if that person can be released or not. So if they can be released, they are released. If they cannot be released, then they remain in detention.

Madam Chairman: The comments of Living Water on the same issue, coming from that side as well.

Ms. Maharaj: Well I just wanted to clarify one thing. So, we have asylum seekers who are registered. Those are the persons who would have filled out the refugee status determination forms, submitted a formal application and would have a certificate issued.

Then, there may be asylum seekers at the detention centre who are not registered, but may be seeking asylum. And one of the concerns that we would have had is if these unregistered persons were able to speak to an officer at IDC to declare that they are seeking asylum, because I know there are interpretation challenges especially with language barriers, if there is someone who can understand them in their language to note that they are seeking asylum.

11.40 a.m.

So we do send regular lists to Immigration of persons who are registered, persons who have been detained, and we have seen cases where they would be released once Immigration has received that information. I cannot exactly state the length of time, but it varies from a couple of weeks to a couple of months, I believe at times shorter periods. But our main concern would be for the persons of concern not registered, and do they have the ability to say they are seeking asylum to an Immigration Officer there and how that is dealt with subsequently.

Madam Chairman: Could you just elaborate when you say that is your area of concern? What exactly has been the experience; or is there a particular recommendation you would want to make that would assist in that gap being closed, those who want to become registered and may have difficulty transmitting that and getting the meetings to get that process going forward?

Ms. Maharaj: Well, I cannot say for certain if persons have done it at IDC and if a process was followed, but one of the recommendations that we would like is better access to IDC so at least we can interview these persons themselves to know if they would like to register as asylum seekers.

Madam Chairman: How do you usually get access to IDC?

Ms. Maharaj: Currently, we do not have access to IDC. I believe the last time we were actually able to go there was December 2014. We had one successful visit this year, but there is a process where if we cannot go to IDC, persons of concern will be brought down to the Enforcement Unit at Henry Street, but the responses in terms of this process happening on a regular basis has been varied.

Madam Chairman: So does the LWC usually write and ask to come in on a certain day to speak to detainees?

Ms. Maharaj: We have not written regularly. We did make one request this year, but that was not facilitated. However, UNHCR during the year has been able to secure some visits, not at IDC itself, but having persons of concern brought down to Henry Street Immigration.

Madam Chairman: Maybe PS or Ms. Gandhi-Andrews, what exactly is happening with the regularity of the access to detainees with IDC?

Mrs. Gandhi-Andrews: First of all, we agreed some time ago on what would be a standard operating procedure for persons seeking asylum, and any person, whether in detention or otherwise, can approach an immigration officer and say “I am seeking asylum in this country”, and there is a process that kicks in right away once that person indicates that they are seeking asylum, that they are—and in this case, I mean the definition of “asylum seeker” is not just that they are in fear of their life and limb, but they are in fear of persecution and that is the determining factor; and there are five grounds for the persecution. So once that happens and they declare that they are in fear, they have a well-founded fear of persecution in their home country, they are seeking asylum in Trinidad and Tobago, right away the officers will contact the refugee unit. The officers in the refugee unit who have been trained will interview them and they will refer them to the Living Water Community for registration.

Now, there is a difference as Gina would have mentioned. There are those who are unregistered asylum seekers, and for us, until you are registered as an asylum seeker then we would not really at that point deal with you because there is a process. Even with UNHCR, you declare your intention to seek asylum, what not, there is a process that they go through to be registered by UNHCR, and they are then given an asylum seeker certificate. But anybody can approach an immigration officer or a detention officer. There are detention officers who do speak a foreign language at the detention centre and they communicate with the detainees. A lot of the times what we have found out is somebody approaching Living Water Community on behalf of somebody who is in the detention centre.

So the detainees themselves are not coming forward to the officers saying that they are applying for asylum. So we do not know until after the fact that that particular detainee is applying for asylum. As I mentioned earlier, sometimes it is only at the point of the special enquiry that the person will produce maybe a copy of an asylum seeker certificate that was sent to them, and we then have to verify whether that asylum seeker certificate is authentic and was issued by UNHCR.

Madam Chairman: If I could just focus on the standard operating procedures that you would have agreed on. That is triggered by the request of the detainee?

Mrs. Gandhi-Andrews: Yes.

Madam Chairman: So is any accommodation given to a request that comes from Living Water Community to visit? That is not the way it operates?

Mrs. Gandhi-Andrews: That is not the way it operates. A person—if you are in fear of persecution you would actually come forward and say—because you are the one to make the decision to come forward and say I am in fear of returning to my country because I fear persecution for X, Y or Z, and like I said you have five grounds.

Madam Chairman: Also through Living Water, this is what was agreed on? Those operating procedures?

Ms. Maharaj: Yes, those operating procedures were agreed on, but a person can also voice their concern to Living Water Community that they wish to seek asylum because if the person declares to an immigration officer, Immigration would refer it to the refugee unit and refugee unit would refer the person to us. On the same instance, if they declare to someone from UNHCR that they wish to seek asylum, UNHCR will refer the person to us because we are the first point of contact. The process is called “reception for asylum seekers”. We actually at one point, well for a long time, conducted the actual registration but now that process is being moved over to UNHCR. But we are the reception of these asylum seekers.

Madam Chairman: So is it then that based on the procedures agreed upon, Living Water would also want to include in those procedures access to the detainees?

Ms. Maharaj: Yes, Madam Chair.

Madam Chairman: Has that been discussed and has that been agreed upon?

Ms. Maharaj: No. We have discussed it, but we have not come to a conclusion as yet in terms of that.

Madam Chairman: And I am asking this because in the submission from Living Water, what comes across is that they would like more access and that is not being given. So I am trying to get to the bottom. But if there are standard operating procedures that were agreed upon it means then that it is not as though access is not being given but we agreed to go a certain way. But if there is now request for revision of those operating procedures to include access of Living Water to detainees without them having to ask for or saying that I am seeking asylum, is that something that can be considered or will be considered by the Immigration Division?

Mrs. Gandhi-Andrews: Madam Chair, when we detain somebody there is every opportunity from the point of detention for an individual to state to any officer I am in fear of returning to my home country, even before they get to the detention centre. So the question has always been: Is it that Living Water—and this is the discussion that is ongoing—wants to interview every single detainee to see whether or not they want to apply for asylum? I do not know that that is the actual process or if that is what happens everywhere else. Because it is an individual making a claim I am in fear of persecution, and that person declaring that to whether it is to the authorities, whether it is to Living Water Community, and whoever it is. But there is ample opportunity for the person at any point of the detention process from the time we interview them—because during the interview when we detain anybody, we screen to see if that person may be a victim of trafficking and they are also asked whether or not they are in fear of returning to their home country. Even at the special enquiry that is a standard question for the detainees, that person appearing before the special enquiry officer, “Are you in fear of returning to your home country?”

If the person indicates, yes, I am in fear of returning to my home country, the special enquiry at the point is adjourned right away for that person to be interviewed by either the refugee unit or they are referred to Living Water Community. So there is a process. If it is agreed at some point that Living Water will have free access to the detention centre—and I do not think that decision will be mine—to interview persons to see if they are asylum seekers, then I think that is a different conversation that we have to have bearing in mind that there are no laws in Trinidad and Tobago; and those are the things that we have. So even if they apply for asylum, even if they are recognized as a refugee, the issue is what happens to them thereafter and what kind of benefits because they are not allowed to work. There is no work permit requirement, there is nothing that we can give to them. So they are really in limbo at all times.

So there is a process that we follow all the time, like I said, if it is they are to be allowed to go to the detention centre to interview persons—all of the detainees—as to whether they are fact an asylum seeker, then I think that has to be a decision elsewhere.

Dr. Mahabir: Madam Chair, thank you very much. I have a follow-up on this. You see, Madam Chief Immigration Officer, you are saying if Living Water is allowed towards—if it is a favour that is being given to an organization. I have visited the maximum security prison, I have visited the IDC. The IDC, in any mind is not what you will consider a maximum security prison where you have all prison protocols in place. I actually mixed and mingled in the huge holding bay with a great deal of the detainees inside there. What I would like to find out is this, in the interest of human rights—I know we have all the operating procedures and the laws, and so on. In the interest of human rights I have two submissions before me, one from Living Water, one from UNHCR. They have both indicated access to IDC remains a challenge for Living Water. Staff have not had official access.

Clearly, you have an organization that is looking after the interest of the detainees that would like to have more access. And the question I would like to pose is this: In the interest of human rights I am of the view that if they ask for it they should get it; what are the impediments? You say it must come from above, but clearly there are certain issues which would have to be worked out by the administrators themselves. Is it that you have a minimum amount of staff that you could allocate to supervise the visits? Is it that you do not have the appropriate rooms? Is it a funding issue? Is it a security issue? What prevents the IDC from having a procedure which says when the UNHCR—UNHCR said that they were not able to visit since 2014. What really must be done to ensure that agencies with an interest in protecting the human rights of all people have access to the IDC?

Mrs. Gandhi-Andrews: Is it access to the IDC or access to a specific individual? And I am sorry if I came across as if we are granting them a favour. It is certainly not my intention because any time a request is made to see a specific individual we make all of the arrangements for Living Water Community or UNHCR to visit those individuals. The

question for us is, is it blanket access for them to interview every person in the detention centre and that is what has to be determined. Because once they say that they wish to see any individual we make arrangements, a room is set aside, either in the visitors' area or another area within the detention centre for Living Water Community or UNHCR to interview those individuals.

There are times when the situation at IDC can be particularly volatile, and what we have observed over the last year or so is that anytime an external person goes into the detention centre for whatever reason, that the detainees themselves start acting up. So that there is a security issue inside of there and that has to be managed and controlled. So that it is not a question of us denying anybody access to the IDC, it is the purpose of the access. And if it is that they are going, they have a list of persons—and they do give us a list from time to time. We had had these persons who we would like to visit, we will determine whether it can happen at the detention centre or whether for safety reasons we will bring them to the Port of Spain office where they can be seen by UNHCR and Living Water Community.

Dr. Mahabir: Okay, a follow-up on this. You see, as my colleague Sen. Hosein indicated, we are signatory to the 1951 Convention. Clearly, Trinidad and Tobago is not the only country in the world, or even in the region which is dealing with this issue. Have you looked at operating procedures in other Caribbean countries; have you looked at it across the world; have you taken advice from the international diplomatic core that is here as to how they treat with this issue? Because clearly, if UNHCR is telling me that to date UNHCR has only been able to visit twice the IDC, they are telling me that they perhaps made attempts and they have only been able to visit twice and perhaps in other jurisdictions they have had freer access. Have you looked at how other people do the thing?

I know this is the first time we are handling this issue in Trinidad and Tobago—we do not have too much experience—but what does international protocol tell us is best practice in this area for UNHCR and sub-agencies like Living Water to have access to your detainees?

Mrs. Gandhi-Andrews: Within the region we have been having regular meetings. In fact, we started—we launched what is called the “Caribbean Migration Consultations” with different migration agencies within the Caribbean region to address this particular issue, and we have met so far twice. We launched in 2016—and it was launched in Trinidad and Tobago—and we met last year in the Bahamas to discuss specifically refugees and how as a region we are to treat with it because we are all actually in the same boat. We have had the experience of the Cayman Islands. They have an established procedure dealing with refugees and they have outlined some of their best practices, and we are all working with some of the best practices and coming up with solutions as to how we should treat with the issue. So that is an ongoing process.

In fact, some of the other countries are looking to Trinidad and Tobago because we are further ahead in our deliberations, and our working arrangement with Living Water Community and UNHCR to establish proper systems because we have shared our standard operating procedures with the other islands. In fact, the Bahamas has recently developed a document that they are going to share with the rest of the region as to how they plan to treat with asylum seekers and refugees. It is an emerging phenomena—if I wish to call it that, I am using that loosely—in the region. We have not had to deal with this before especially in these large numbers now with the situation right next door.

So it is an ongoing process and a lot of it has really to do with Government policy and the establishment of those policies, those laws, to treat with the issue. Because from where I sit, as I said, I am constrained by my law, and while I have, in the past, allowed certain things to happen I am actually running ultra vires to my own Immigration Act. So that there are things, and I am admitting that publicly, but in the same interest of human rights that we have tried to deal with the issue. So it is a large issue and it is something that is emerging in Trinidad and Tobago that we have to deal with. There are probably close to 7,000, from the last report from UNHCR, asylum seekers in Trinidad and Tobago. So that it is a problem.

The detention centre is only a small issue, but you have more persons on the outside who really are in limbo because there is nothing in place as yet and it is something that has to be addressed. When it comes to detention, there are particular issues and, like I said, there are security issues with the detention centre. If the persons—UNHCR, or Living Water—any time they tell us they want to see these individuals, we make arrangements for them to see those persons.

Madam Chairman: Okay, if I may, just to clarify, I would like Living Water to come in and to clarify exactly what access you are speaking about. Do you have difficulty accessing individuals that you have asked to accessed; or is it

that you want to be able to come in and address the detainees in a general manner to advise them of what their options may be? Maybe we could have some clarity on you from that and as well may be you could weigh in on the issue of regional practice and international best practice and whether or not this is something that is followed internationally or regionally.

Ms. Maharaj: Well, just to clarify, we are not asking access for all persons in detention. We are just merely requesting access for those persons who would have indicated that they wish to seek asylum maybe through family members, maybe through friends, locals in the country, just to follow-up, because as indicated everyone has a right to asylum and it is our duty as Living Water Community, implementing partners of UNHCR, to ensure that these persons of concern are protected and are given a fair opportunity to apply for asylum or to ask any questions they might have about the process.

So this is the type of access we are requesting and we have a data of persons that would have reached out through third parties stating an intention to seek asylum, and if we are granted access, we would have a list of names that we would want to interview particularly. So it would not be for all persons in detention.

Madam Chairman: So let me be just very clear. What you are saying is that there are persons who have not—the detainees who not have said to officers that we want to seek asylum status, however they have said it through third parties and you are having difficulty assessing those persons—

Ms. Maharaj: Yes. Correct.

Madam Chairman:—even though you have tried to get onto them?

Ms. Maharaj: Yes. Correct.

Madam Chairman: Okay. So I just want to be clear that is what we are saying. And in terms of international best practice?

Mr. Rampersad: I would just like add, Madam Chairman, that what happens is that in terms of asylum seeking and refugee status, and all of that, the asylum seeker's circumstances may change in terms of their country of origin. So at any point in time their local circumstances, their local condition at their country of origin may change. So therefore, they may be entitled at any point in time to make that application. It may not have been relevant last year, but it may be relevant now.

Mr. S. Hosein: Seeing that there is a large population of detainees at the IDC, has any voluntary repatriation exercise been carried out in the centre to determine whether or not any of these persons would like to return home?

Mrs. Gandhi-Andrews: I am not understanding the question.

Mr. S. Hosein: For persons who seek refuge—a person who seeks refuge does have a right for voluntary repatriation. Again, under International law there are human rights that are endowed on them. Has any exercise been conducted with respect to those person who would be willing to return home?

Mrs. Gandhi-Andrews: For us, anybody who is willing to return home will be facilitated. If you are talking about a refugee who has decided to return home, there is a process for that individual that UNHCR has in place in terms of advising them and what not so that it does not appear as if the country is breaching that whole principle of non-refoulement. But anybody could return home. So it is not an issue of them returning home, it the question of who pays for their repatriation. The only time that we will pay for their repatriation is if we have ordered them deported, otherwise they are required to produce a ticket however they acquired the ticket.

Mr. S. Hosein: Has Living Water had any issues with regard to this?

Ms. Maharaj: Well, generally speaking, once a person has an asylum seeker certificate or a refugee certificate, in principle they are not supposed to be *refouled* to their country of origin.

Madam Chairman: Just a question on the deportation order issue and some clarification I think the public would be interested in knowing. Someone can have a deportation order and still be at the Immigration Detention Centre. Could you explain to us how that happens and what are the circumstances under which that would occur?

Mrs. Gandhi-Andrews: The reason why they will have the deportation order and still be at the detention centre is

that we are awaiting either the ticket for them to return home that they are willing to provide, or we are awaiting approval from the Permanent Secretary to purchase a ticket, or we are awaiting the cooperation of the detainee themselves after they have been ordered deported to actually leave when we have made arrangements for their repatriation. Because like I mentioned earlier with one of the detainees, we made arrangements for his repatriation, had all of the escorts in place, bought tickets, everything is arranged and two o'clock the morning he serves an injunction saying that he is not going home, that he has some legal challenge and he does not wish to return. So we had to abandon that process.

So we get to the point of ordering the person deported, the next stage is the actual repatriation, the removal to their home country which required the ticket, which requires the travel document and the escorts, and then that detainee cooperating in their repatriation. We had detainees get on board the plane and then decided to act up and were removed from the aircraft. So that whole repatriation exercise was aborted. So that is the reason why they would hold a deportation order and are at the detention centre.

Mrs. Jennings-Smith: I want to return to an earlier question because I believe my colleague here had asked about the—and you referred to him about the six months is nothing or not being applicable and I want to return to the fact that the International Organization for Migration submission to the Working Group on Arbitrary Detention published in November 2011, submitted a map said that:

“A maximum period of detention must be established by law and this may in no case be unlimited or...excessive in length.”

And—“the European Union Directive 2008/115”—stated and—“recognizes that each Member State should set a limited period for detention”—and the period cannot exceed six months.

So, yes I know that even Living Water accede to the fact that you all have been agreeing or working out something to present for law. But you know some time when we set limits it gets us to be more effective and efficient and it would have had an impact on how long we have the detainees at the centre and how we would treat with them to have them dealt with in a more—quicker timing.

So even though you all are working out something, and bearing in mind that we have a European Union Directive which states that the period should not exceed six months, did that impact upon your determination of your standard operating procedures and your practices in dealing with the persons at the detention centre? Because what we are looking at is that people have been kept there for long periods of time and, yes, we know there are other things that would have barred their release, but did that point have any effect upon your determination in developing your standard operating procedures, your procedures and your practice?

Mrs. Gandhi-Andrews: There are two separate things. The issue of asylum seekers and refugees is one issue. The issue of detention and the length of detention is something completely different. Our Act does not speak to any length of detention. It speaks to detention. We try as far as possible to fast track our processes in terms of the time for their detention when we detain them, to the time they appear before a special enquiry officer and, like I said, once everything is in place we could have that person removed from the country in a very short space of time.

The issue with the length of detention has to do with the other factors: can we identify the person which is the key issue for us; identifying the person, their nationality because then that determines where we are going to send them to once they are ordered deported; whether they are cooperating; do we have a travel document. So all of those things come into play and this issue of the length of detention has come up in various court matters when persons file writs of habeas corpus, and it has been ventilated in court there are some attorneys referred to what is the Hardial Singh principles and, we are also guided by that. But it comes down to the detainee and their cooperation because a lot of them once we put limits, okay, you cannot detain me for more than six months and, therefore, there are times when some detainees have played for a release. So after a particular time they do not cooperate, they do not cooperate, and they say well no, now I am going to file a writ of habeas corpus because you are keeping me in detention too long.

12.10 p.m.

So there are two sides to that. There is the one side where, yes, you can blame the Immigration Division for being tardy in processing them, but that tardiness, I would not say it is really tardiness, but it is in putting all of the measures in place to effect their repatriation at the end of the day. Having a travel document, liaising with their Embassy, getting their travel document, the tickets, et cetera, the escorts, and that could be a protracted period of time,

if they have to serve time for their offence. So there are a number of factors that come into play.

Ms. Jennings-Smith: And I am saying all of this because at another time when you were before this very Committee we looked at the cost, the cost factor with the keeping of the detainees at the Immigration Centre for these unduly lengths of time. It is really creating a lot of expenses to the Government for the maintenance of these persons and hence the reason why I suggest now that maybe you should maybe factor that into your policy and your planning with respect to how you deal with detainees at the centre, because you not only have a legal implication, but you also have a huge cost from Government.

Madam Chairman: So, we will take our last question, maybe?

Dr. Mahabir: I have a follow up, Madam Chair, a follow up on this. You see, what colleague Jennings-Smith indicated to my mind is a very, very practical problem that we have. I looked at the submission from the Ministry of National Security and I saw that meals per day amount to some \$80. I estimated that it may cost the State something like \$300 a day when we are looking at all other costs to house a detainee. When I extrapolated that, I saw that after six months, the sixth-month period that my colleague suggested, we would have spent something like \$50,000 to house a detainee at the IDC. And given that, it was earlier indicated, that a security bond posted to say that one of the most expensive destinations may not exceed \$50,000. I am wondering from the policy-making perspective of the Ministry of National Security—this may very well be directed to the PS, Ministry of National Security—whether given the fact that after six months at the IDC the amount that we are spending to house may be in excess of the amount that we are going to spend in repatriation, whether you should not have some policies in place to ensure that the systems of detention can in fact be worked out for the economic reasons only within a six-month period.

Mr. Lewis: Well actually, we looked at that on many occasions and the issue with that is the risk involved. In fact, it is that we do make every attempt to either repatriate or release detainees because we have taken the cost into consideration and the decision to either repatriate or to detain, the Chief Immigration Officer has gone at length to describe how we would treat with that. But certainly we do take into consideration the economic factors in determining the measures we take at the detention centres.

Dr. Mahabir: Okay. But Mr. PS, if someone is willing to post a security bond for that individual, maximum say 50,000 within a six-month period, do you think that that particular process can work to make sure that we minimize the stay at the facility? If we can encourage people to post security bonds for people on the inside?

Mr. Lewis: Well, that could be so given the other factors—yeah?

Madam Chairman: So we will take two more questions. We will take one from our online viewers and we will take the last question from Sen. Hosein. One viewer is asking: “How are persons repaid their bond—I imagine their security bond—once they leave the country, especially in instances where they also have to pay in addition for their ticket back as well as the bonds?” So they are asking, if someone has paid the security bond and they have paid for their ticket, how are they getting back their bond money. Is that a circumstance that occurs?

Mrs. Gandhi-Andrews: The security bond can be refunded once they produce a ticket and more often than not the bond is in the name of the person who is actually paying it. So, more often than not it is not in the name of the detainee. But, for example, if I post a bond for any detainee, it is in my name and then once the person has left the country we actually refund that security bond and there is a process once it is released, once the person has left and we confirm that that person has left the jurisdiction, then the accounts unit will make the arrangements for the refund of the security bond. If it is the person is out on an order of supervision, the security bond is paid and they then breach the terms and conditions of the order of supervision, that security bond will be forfeited and it becomes part of the State resources to repatriate that individual when the time comes. But in that case once the person is in breach, that money will be forfeited.

Mr. S. Hosein: Chair, on your question, did you—I probably missed it, but did you give the process where the bond is in the detainees name himself, how he gets back the money?

Mrs. Gandhi-Andrews: He makes a request.

Mr. S. Hosein: And the money is transferred to him abroad?

Mrs. Gandhi-Andrews: Yes.

Mr. S. Hosein: Okay. And the last question I have with respect to this enquiry is, I was looking at some newspaper

reports, I believe in the month of May, and there was some protest at the IDC with regard to some of the detainees actually drawing their own blood, burning mattresses, hunger strikes, because of the treatment and the conditions of the centre. Has anything been done since May until now, in order to address those concerns, both the Ministry of National Security and also Living Water, if there are any complaints coming out from the detainees? If anything has been done to alleviate the problem since May? And the second question is that, to Living Water, whether or not you have a different perspective.

Mrs. Gandhi-Andrews: Before I let Mr. Aley tell you, because he is the person at the detention centre, we would have expended significant sums of money to improve the conditions at the detention centre. We have had defence force personnel on the ground actually doing the work, the construction and what not, and that work is still ongoing. We have replaced beds, we have replaced the tiles, we have improved the conditions.

Mr. S. Hosein: This is the period from May?

Mrs. Gandhi-Andrews: Yes. And that has been ongoing. I think the last issue we had was with the fans and the ventilation and that was addressed in July of this year. The riots that took place in May, I will let Mr. Aley tell you about that because he was directly involved.

Mr. Aley: Well, basically what transpired is that most detainees, they became upset because they were asking about their status. And the answers that we gave them, they were not satisfied with the answers. It was not really the conditions, because since last year December, work started at the IDC. We improved the lighting, ventilation, plumbing, we procured new beds, mattresses, so basically the upgrade was done, so that was not the issue. The issue as always is their status here; why they are being kept so long. But the thing is, we have—and what happened, they find that we give the same answers all the time, that “We are awaiting word on your Consulate to get a travel document”, “We are awaiting some other document”. That, in May, was not on the grounds of the conditions of the IDC, but other immigration status.

Mr. S. Hosein: Living Water.

Madam Chairman: Living Water, do you have a comment?

Ms. Maharaj: We cannot really attest to the conditions of IDC because we do not have firsthand knowledge of it. But what I can say is that at least for persons seeking asylum, us having access to speak with them can provide them some sort of comfort in terms of their status as an asylum seeker.

Madam Chairman: All right. So our last contribution from Sen. Dr. Mahabir.

Dr. Mahabir: Thank you for indulging me, Madam Chair, and this is a question that is in relation to asylum seekers with children. Are provisions made to have the children enrolled in schools in Trinidad and Tobago for asylum seekers? So is it that we have children in Trinidad and Tobago who are not enrolled in schools and who ought to be in schools according to the laws, where everyone under 16 ought to be in school? Do we need the Ministry of Education here to answer that one? Or you do not have the information on it? Clearly, there must be a policy for the education of children of asylum seekers.

Madam Chairman: I do not know, I am not sure. I am looking at the angst. I am not sure if this is necessarily a part of what you all would look at.

Mr. Rampersad: Well, hon. Member, what we can say, at least from the Living Water Community side, is that there are challenges with respect to minors, children in Trinidad and Tobago, asylum seekers and refugees who have not been allowed access to education and we have those registered actually.

Dr. Mahabir: You said challenges. Is it that you are saying that there are children in Trinidad and Tobago who may be in some housing facility who are not given the education facility simply because their parents are asylum seekers? Are you saying that?

Mr. Rampersad: No, I am not saying that.

Dr. Mahabir: Okay, what exactly are you saying?

Mr. Rampersad: I am just simply saying that what we have happening is, there are registered asylum seekers and

refugee children in Trinidad and Tobago. Parents who are asylum seekers as well, they are not being given the opportunity to get access to public education.

Madam Chairman: I want to caution us at this point. I think we are stepping out of the area that we have intimate knowledge of and I want us to not go into blatant speculation at this point. So, that being the case I would like to thank everyone for their submissions and invite at this point brief closing remarks from PS Vel Lewis, as well as Ms. Gina Maharaj of the Living Water Community.

Mr. Lewis: Thank you very much, Madam Chairman. Let me just say that despite the fact that we may have no laws at this time to treat with refugees and asylum seekers, we do have a very good relationship with the Living Water Community and the international organizations in Trinidad and Tobago. As the Chief Immigration Officer said, in fact, it was under two years ago, under two years now that we have actually revised our standing operating procedure with the Living Water Community to treat with those matters. Let me also give you the assurance that the Immigration Division and the Ministry as a whole, is doing everything within its powers to ensure that the conditions at the IDC, such that the detainees there are comfortable, are well served and every effort will be made and continues to be made to ensure their human rights are observed. Thank you very much.

Madam Chairman: Thank you. Ms. Maharaj.

Ms. Maharaj: Madam Chair, yes, we definitely have a very good working relationship with the Ministry of National Security and this is an ongoing process in terms of moving forward for the protection of asylum seekers and refugees. I would just like to make some closing remarks because you did ask the question about international best practice and it was not answered. But UNHCR Detention Guidelines do recommend that the right to asylum must be respected and detention of asylum seekers should be considered as a measure of last resort, and if you permit me I would just like my colleague, Allyson, to just comment on alternatives to detention.

Ms. Weekes: We mentioned in our second submission that the European directive to which Madam Vice-Chair referred, that it's at six months. In fact, Cabinet issued a draft refugee policy in 2014, which established 10 days as a limit to detention. Other best practices we can look at abroad include the Philippines where refugee applicants are released provisionally, and Sweden, where detention is only used as a very last resort for persons being deported. In Mexico detainees are released if deportation cannot be achieved within 60 days. In Australia persons who cannot leave their country for reasons beyond their control, for example, their Embassy cannot issue a travel document, cannot or will not issue a travel document, are released. So these are some of the best practices that we have looked at and which might be applicable to our situation.

Madam Chairman: Thank you. I would just like to give a little summary of some of the things we would have discussed and some of our findings and recommendations. More persons enter Trinidad and Tobago illegally than are detected by the systems in place. Many persons enter illegally without documentation and in this regard a number of these have been growing from Venezuela. If an illegal immigrant has avenues of support and can post a security bond and persons to support them, they can be released on an order of supervision. They must also have identification documents there.

Whereas there are approximately 1,700 persons out on orders of supervision, there are approximately 120 in detention at this time. Security bonds vary by country of origin in the amount with respect to the country of origin of the immigrant. Some illegal immigrants refuse to cooperate with officials and they do not sign visa documents, et cetera, and this can retard the repatriation process. The Immigration Department has 19 special enquiry officers and the stenographer pool is limited, which from time to time may present blockages to the repatriation process and the enquiry process. Where there are detainees with families and proof of familial ties, all efforts are made to provide orders of supervision to such detainees.

Orders of supervision are intended to be short-term but may last upwards of two years or more depending on the circumstance of the detainee. The current Immigration Act does not recognize asylum seekers, therefore refugee seekers are more often than not placed on orders of supervision and they may be released on orders of supervision, but the circumstances would dictate whether or not that happens. It is not an automatic release, it depends on the circumstance. Immigration officers are rostered to interact with detainees to provide information on their immigration status. They interact with enforcement officers to provide information to detainees. It must be noted however, that some detainees express the desire for provision of more regular information updates on their individual cases.

Asylum seekers at the IDC may be unregistered and may have difficulty meeting with the Living Water

Community to become registered. Living Water Community and the IDC have agreed on standard operating procedures to facilitate this process which is triggered by a statement of request by the detainee. Living Water Community has indicated their desire to have freer access to the IDC to interact with persons who through third parties, have indicated their intention of applying for asylum status. This bears further discussion between the Ministry of National Security, the IDC, Living Water and the UNHCR.

A deportation order may be served to a detainee but this triggers the process of repatriation which involves the provision of travel documents, a ticket and a flight to their country of origin and the cooperation of the detainee. So this may make the repatriation process a varying length. With regard to policies, the cost of detention should be factored into the time frame determined for completion of the different stages of the repatriation and detention process. Alternatives to detention have been explored in Trinidad and Tobago, however, there are other avenues which may be explored and applicable to us which should be figured into any policy decisions on repatriation.

So these are just some of the things we would have discussed and I want to again thank the officials from the Ministry of National Security, from the Immigration Detention Centre, from the Immigration Department. I want to thank the officials from Living Water who have been here with us and the members of the Committee who made themselves available for us to pursue this most important enquiry and public hearing. At this point, I would like to thank the listening and viewing audience and declare this meeting now adjourned.

12.29 p.m.: *Meeting adjourned.*

APPENDIX III SITE VISIT REPORT



PARLIAMENT
Republic of Trinidad and Tobago

Levels G - 7, Tower D
The Port-of-Spain International Waterfront Centre
1A Wrightson Road, Port-of-Spain

Joint Select Committee on Human Rights, Equality and Diversity



SITE VISIT REPORT TO THE IMMIGRATION DETENTION CENTRE (IDC), ARIPO

Site Visit Report to the Immigration Detention Centre (IDC) held on Friday June 01, 2018 from 9:15 a.m. to 12:00 p.m.

Introduction

On Friday June 01, 2018, the Committee convened a public hearing into the Treatment of Detainees at the Immigration Detention Centre. The written submissions from stakeholders and written and oral submissions from the Ministry of National Security, Immigration Division were considered, as a result, the Committee determined that a site visit should be conducted to:

- a) to acquire a realistic perspective of the issues/challenges which may be impacting the entity in question with a view to making informed findings and feasible recommendations in its report to Parliament; and
- b) to verify evidence received in writing or at the public hearing.

In view of this, the Committee wrote to the Ministry of National Security and gave notice of its intention to conduct a site visit on June 01, 2018 at 9:00 a.m.

The following persons attended the site visit:

Committee Members

- | | | |
|------|---------------------------------|-----------------|
| i. | Dr. Nyan Gadsby-Dolly, MP | Chairman |
| ii. | Mrs. Glenda Jennings- Smith, MP | Vice - Chairman |
| iii. | Mr. Esmond Forde, MP | Member |
| iv. | Mr. Kazim Hosein | Member |
| v. | Dr. Dhanayshar Mahabir | Member |

Secretariat Staff

- | | | |
|------|------------------------|-----------------------------|
| i. | Ms. Candice Skerrette | Secretary to the Committee |
| ii. | Ms. Khisha Peterkin | Assistant Secretary |
| iii. | Mrs. Angelique Massiah | Assistant Secretary |
| iv. | Ms. Aaneesa Baksh | Graduate Research Assistant |

Immigration Detention Centre

1. On arrival at the Immigration Detention Centre, the contingent assembled and was greeted by the following officials of the facility including:

- Mr. Kern Penco Chief Immigration Officer (Ag.)
- Mrs. Joanne Nelson-Joel Assistant Chief Immigration Officer
- Mr. Dennison Aley Immigration Officer IV, IDC
- Mrs. Pauline Moolchan- Diaz Interpreter
- Mr. Terrence Rampersad Immigration Officer III
- Mr. Winston Lopez Manager, IDC

2. The tour commenced at approximately 9:20 a.m. at the IDC. The tour began with a briefing session in the Staff room of the IDC where Mr. Penco and Mrs. Nelson-Joel welcomed the Members. During the briefing session the Members enquired about the daily challenges experienced at the IDC and were informed of the following issues:

- The difficulties with acquiring a route to repatriate illegal immigrants;
- Illegal immigrants who are charged with criminal offences are detained at the IDC instead of at an appropriate detention facility;
- The absence of financial resources to create a separate designated area for detainees who need to be quarantined due to illness or other considerations;
- The inability of illegal immigrants to pay fines issued by the Court;
- The need for judges to implement the Section 40 of the Immigration Act, Chap. 18:01 which indicates a convicted illegal immigrant *“is liable on summary conviction for a first offence to a fine of fifty thousand dollars and to imprisonment for three years, and on any subsequent conviction to a fine of one hundred thousand dollars and to imprisonment for five years,”* and for the convicted illegal immigrant to serve the period of imprisonment since many of the detainees are unable to pay the fines issued by the Court;



Figure 14: Members of the Committee at the briefing session

- The building used by the IDC was not built to specifications and is unable to fulfil the requirements of a detention centre.

Female Dormitory

3. After the briefing session the tour commenced at the female section of the IDC. The Members noted that the current population of IDC as at June 01, 2018 was 104 males and 21 females. The Members were ushered into a dormitory unit which consisted of 16 bunk beds and two air fans on walls. The Committee observed that the dormitory area was neat and clean and several beds had Bibles or board games for the entertainment of the detainees.



Figure 18: Female Dormitory at the IDC



Figure 17: Female Dormitory at the IDC

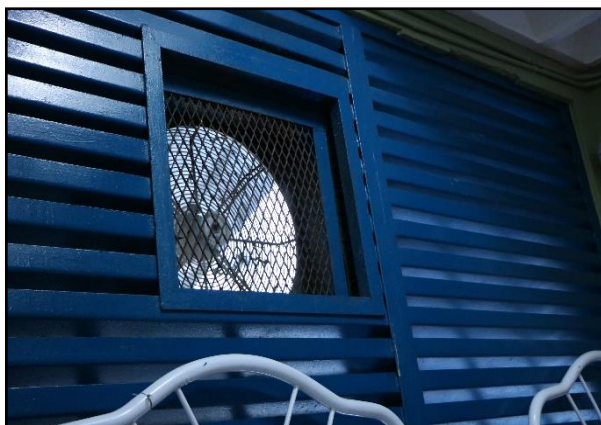


Figure 15: Ventilations system in the female dormitory

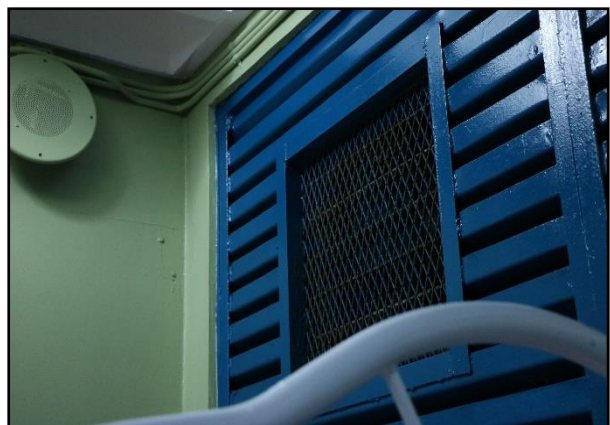


Figure 16: ventilation system in the female dormitory

4. The Committee was then taken to the adjoining bathroom and shower area which consisted of four toilets, four sinks and four showers. There were also a washing machine and a dryer and the Committee was informed that laundry day is every Monday, Wednesday and Friday. The Committee was informed that there were no infrastructural tampering with the facilities at the female dormitory and the water supply is not interrupted.



Figure 20: Toilet in the female dormitory



Figure 19: Laundry baskets provided to female detainees in the IDC



Figure 21: Washer and Dryer provided to female detainees at the IDC

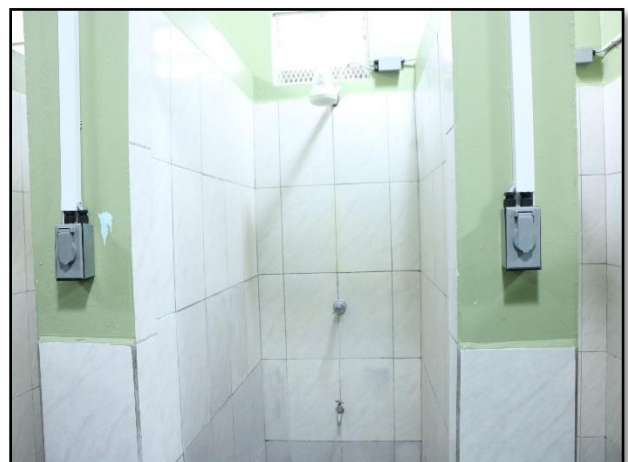


Figure 22: Showers for female detainees at the IDC

5. Members were informed that there were no security concerns with the women in the dormitories with regard to the concealment weapons or destruction of property which is more common in the male detention area.
6. The Members were informed that female detainees were not allowed to have their children at the IDC and separate children accommodations were made at children homes. Children are allowed to visit the mothers via a special request made by the mother to the IDC officials.
7. Detainees are provided with scrubs identifying them as IDC detainees for use at the facility and meals are provided by a catering service. However the Committee noted that disposable eating cutlery were provided by the IDC rather than the catering service provider. Members highlighted that the caterer should provide the disposable eating cutlery in light of the financial constraints faced by IDC and as is the norm by any catering service provider prepared to provide a contract for services.

Female Recreation Area

8. The tour was then guided to the Recreation Area for the female detainees that consisted of 2 tables (with seating), 2 table tennis tables, 1 television and an air vent.



Figure 23: Recreation Area for female detainees



Figure 24: Members of the Committee interacting female detainees

9. The Members were allowed to speak with all of the female detainees with the assistance of Mrs. Moolchan-Diaz, Interpreter. The majority of the female detainees were from Venezuela

with the two of the women from Dominican Republic and one from Colombia. The Members noted that the detainee from Columbia is a repeat offender and has been detained at the IDC four times.

10. Members were allowed to interact with the detainees and were informed of the following:

- One detainee indicated that she came to Trinidad four months pregnant and since she was detained at the IDC (three weeks), she had not received pre-natal care;
- The current limited availability of food and medication in Venezuela forced a lot of the detainees to come to Trinidad;
- Many detainees were employed as babysitters and cleaners prior to being detained at the IDC;
- Detainees indicated they prefer to serve the time in prison for the offences committed rather than to pay the fines since they are unable to afford the fines levied;
- Many detainees have young children under the age of 5 and worked to send money to Venezuela and Dominican Republic for their respective families. Many detainees became emotional when they spoke about missing their children and families;
- The recreation room was claustrophobic and the food provided was poor;
- The fines for illegal entry varied in the San Fernando Magistrates Court and the Chaguanas Magistrate Court. In one case, the fine at San Fernando Magistrates Court was \$10,000 and in another case, the fine at Chaguanas Magistrates Court was \$30,000;
- The waiting period to receive deportation documents from the Immigration Division lasted up to four months; and
- The detainees are unable to adequately communicate with IDC staff and there was a need for a resident interpreter at the IDC.

11. The Committee was informed that the Enforcement Unit, Immigration Division is responsible for following-up on individual cases and in most cases detainees are placed on an 'Order of Supervision' and are not placed at IDC. Members highlighted that was a need to strengthen the current communication and follow-up systems within the Immigration Division and with Embassies;

12. The Detention Officer in charge of the female dormitories suggested that female doctors to tend to the female detainees as a means of protecting both the female detainees and the male doctors from suspicions of sexual harassment.

13. Members noted that an IDC Strategic plan should be created with recommendations to improve the systems, establish standards and procedures to improve and strengthen the IDC operations;



Figure 25: Member of Committee speaking with officials from IDC.

Male Recreation Area

14. The tour was then guided to the male detention area at the IDC. Upon entering, the Members noticed that the area was more humid, without ventilation and there was no natural light in the area.

15. The Members were guided to the Recreation Area for the male detainees that consisted of tables (with seating), table tennis tables, 2 televisions (mounted on the wall) and an air vent;

16. In comparison to the female recreational room, the male recreational room was twice the size of the female recreational room and clothing and towels hung on the bars surrounding the perimeter of the room;

17. Members noted a number of mattresses on the floors and were advised that the moving of the mattresses from the dormitory to the recreational area was a form of protest by male detainees on the IDC conditions and the ambiguity of the length of their detention;



Figure 27: Mattresses on the floor of the Recreation Area for the Male Detainees at IDC



Figure 26: Mattresses on the Floor of the Recreation Area for the male detainees at IDC

18. Upon noticing the Members, the detainees crowded close to the Members and were eager to share their personal stories. The Committee also noticed that there were some male detainees who were confined to the dormitories during the site visit and were informed that those detainees had committed serious criminal offences as such the Committee was unable to inspect the male dormitory area;



Figure 29: Members of the Committee interacting with male detainees



Figure 28: Members of the Committee interacting with male detainees

19. Members interacted with male detainees and were informed by many male detainees that:

- They would like to leave Trinidad and the IDC accommodation costs exceeds the deportation cost;

- Even after the recent refurbishments, the ventilation and lighting were not fully functional;
- Some of the detainees have not yet been to court for their case;
- They have their deportation papers after serving time in prison but have not left the IDC;
- They are willing to purchase their own airline tickets upon completion the period of imprisonment at the Maximum Security Prison;
- There is one detainee who has not physically moved from his mattress since he was detained at the IDC and other detainees suspected he may have a mental illness;
- There is an absence of a fire escape and a sprinkler system in the IDC;
- The clothes provided by IDC often had mildew and there is a limited availability of detergent to wash clothes; and
- The process for detainees seeking asylum and to verify the asylum documents is slow.



Figure 30: Members of the Committee interacting with male detainees



Figure 31: Members of the Committee interacting with male detainees

20. The tour then returned to the Reception Area where the Committee met and interacted with additional male detainees the majority of which were from African countries. Many of the detainees at the Reception Area provided the Committee with hand written submissions and photocopies of Ministry of National Security documents related to their individual cases.

21. The Chairman expressed her gratitude to the officials of the IDC for facilitating the visit and Mr. Penco returned the sentiment.

Visitor's Area

22. Members then requested to view the visitation area for the IDC and were ushered into the facility. The Members noticed that the non-contact visitation area facilitated six persons however two of the speaking receptacles were not working.



Figure 33: Members viewing the Visitors Area at the IDC



Figure 32: Cubicles for the use of visitors and detainees



Figure 34: Cubicles with broken speaking areas at the Visitors Area



Figure 35: Inside of the Visitors Area

23. The Committee was informed that there was visitation of 15 minutes on Tuesday and Thursday and sometimes on Saturdays for female detainees while for male detainees it occurs on Wednesday, Friday and Saturday. Members were also taken to the interview room attached to the visitor's areas where detainees were allowed to speak with attorneys or representatives of Living Water Community.



Figure 36: Private meeting area for lawyers and other officials when visiting the IDC

24. The site visit ended at 12:00 p.m. and the Members departed for their separate destinations.

June 06, 2018

APPENDIX IV IMMIGRATION DETENTION CENTRE OPERATIONAL ORDERS

Regulation No.	Regulation	Compliant/ Non-Compliant (Yes/No)	Current Treatment
1	Personal Hygiene - Each Dormitory is to be equipped with the necessary amenities and detainees are to be provided with uniform scrubs and toiletries as required.	Yes	Each Dormitory is equipped with the necessary amenities including sinks, toilets and bathrooms and detainees are provided with uniform scrubs, underwear, towels, slippers, toothbrushes, toothpaste, toilet paper, hair combs, deodorant, soap, shampoo, disposable shavers and body lotion. Female detainees are to be provided with sanitary napkins. Hair cutting machines and nail clippers are made available under supervision. The amenities and items listed are provided at no cost to the detainees.
2	Recreation - Indoor and Outdoor recreation areas are to be provided for both the Male and Female Dormitories.	Yes	These areas are fitted with tables and chairs, television sets and DVD players for the viewing comfort of the detainees who are also afforded reading and writing material and different board games. The facility is also well-appointed with two outdoor recreation areas used by the male and female detainees at different intervals. These areas are used by the detainees for various sporting and other physical fitness activities.
3	Meals - Detainees are to be provided with three meals per day prepared based on stringent nutritional standards with provisions made for vegetarians and detainees with other special dietary requirements.	Yes	Detainees are provided with three meals per day as recommended by a certified dietitian and prepared by a caterer listed under the National School Feeding Programme and contracted by the Immigration Division. The meals are prepared based on stringent nutritional standards and provisions are made daily for vegetarians and detainees with other special dietary requirements. The indoor recreation areas are used as dining halls for the consumption of these meals.
4	Worship - A dedicated house, room or other area must be set aside for worship.	No	The facility does not have a dedicated house, room or other area for worship, however, detainees are permitted to utilize available spaces in their respective housing units for religious worship.

5	Laundry - Dedicated laundry areas outfitted with automatic washers and dryers are to be provided for use by the detainees.	Yes	Both the Male and Female Dormitories are equipped with dedicated laundry areas outfitted with automatic washers and dryers. Individual detainees are appointed and permitted to use these facilities on behalf of respective housing units on a rotational basis. Laundry detergent is provided at no cost to the detainees.
6	Health - Detainees must be granted access to a registered medical professional as may be required.	Yes	Detainees are granted access to a registered medical doctor provided by the Ministry of Health one day per week. Four full-time Emergency Medical Technicians/Paramedics are also assigned to the Centre. They assist the Doctor during his weekly visits, comply with his instructions regarding the management of sick detainees, render medical assistance in emergencies, ensures that prescriptions are filled in a timely manner, distributes prescribed medications to the detainees daily, and performs other related medical functions. The Centre is outfitted with a fully functional doctor's examination room and Emergency Medical Technician's office to facilitate the delivery of health services.
7	Telephone - Detainees are to be permitted to make and receive telephone calls on a regular basis.	Yes	Detainees are permitted to make and receive telephone calls twice per week. This process is facilitated by loaning the detainees their mobile phones which are kept in the property room. Detainees must have credit on their phones or phone cards. The cost for this service is not borne by the State. It is to be noted however that detainees are permitted a telephone call at no charge upon their initial admission to the Centre.
8	Visits - Detainees must be allowed visits from family members, members of the public, embassy and consular officials, attorneys and other	Yes	Members of the public can visit detainees every day of the week including weekends and public holidays during specific times prescribed for these visits. The only exception currently is Fridays, Carnival Monday and Tuesday and when the Centre is on

	individuals of similar status.		“lock down” due to an existing emergency situation. Special arrangements are also in place for emergency visits and special visits by embassy and consular officials, attorneys and other individuals of similar status. The building used for visits is outfitted with six no-contact visitor stations, a special visit room, two toilets and a reception room where prospective visitors are screened and recorded. Visitors are permitted to bring certain foodstuff and other items for the detainees but these items must be carefully examined prior to their acceptance. This practice has been posing some challenge for the Centre as contraband (mobile phones, razors, SIM cards and cigarettes) has been routinely found hidden in some of these items and the prospective visitor permanently debarred from future visits.
9	Contraband- This Operational Order is intended to eliminate the possession and trafficking of contraband at the Immigration Detention Centre (IDC) thereby enhancing the level of safety and security at the facility for both staff and detainees. For the purpose of the IDC, contraband is defined as articles/items prohibited by law or forbidden by the facility. Such articles/items include but are not limited to dangerous drugs and paraphernalia; firearms and explosives; weapons that are made, adapted or intended; cigarettes, cigarette lighters and other tobacco products; alcohol and other intoxicating beverages; alcohol based products	Yes	The following procedures are in effect to eliminate the possession and trafficking of contraband: • DO's Personal Effects • Off Duty • Random Searches • Visitors • Daily Inspections • Weekly Contraband Sweeps • Monthly Facility Searches • Formal Investigations

	and flammable liquids and substances; civilian clothing; medicinal products; money; any type of tool or part thereof; cellular telephones and recording devices.		
10	Defacement- This Operational Order is intended to eliminate incidents of defacement of the walls of the housing units at the Immigration Detention Centre (IDC), ensure the prompt identification and removal of defacement and provide legitimate opportunities for detainees to express their artistic talents. For the purpose of the IDC, defacement of walls means any unlawful inscription, word, figure or word design that is marked, scratched, drawn, sprayed, painted, pasted, applied or otherwise affixed to the walls of the housing units including newspaper pages, pictures posters and notices.	Yes	The following procedures are in effect to eliminate incidents of defacement of the walls of the housing units: • Sensitization • Daily Inspections • Investigation • Suspension of Privileges • Removal and Repainting • Supplies • Artistic Talents • Prohibition
11	Detainee Canteen- This Operational Order is intended to establish standard operational and fiscal guidelines for the operation of a Detainee Canteen at the Immigration Detention Centre.	Yes	Receiving attention currently for implementation

	A Detainee Commissary or Canteen is a store within a Detention Centre from which detainees may purchase approved products such as hygiene items, snacks and writing instruments that are generally not furnished by the Centre. Since detainees are not allowed to possess cash (which is considered contraband; Operational Order No. 5/2015), purchases are made on their behalf by friends, family members and other individuals having an interest in the welfare of the detainee.		
12	Property- The recommended practices and procedures prescribed are intended to ensure that the personal effects of detainees are secured upon their admission to the Immigration Detention Centre and subsequently returned upon their release from the facility. It is also the intention of this Operational Order to reduce the opportunity for contraband to enter the facility. Property of a Detainee that are subject to confiscation upon admission include: a. Clothing b. Cash c. Jewelry d. Cellular phones	Yes	Receiving attention currently for implementation

	e. Laptops/tablets f. Religious items/religious readings g. Documents h. Reading glasses		
13	Special Operations Team (SOT) - A Special Operations Team (SOT) is established at the Immigration Detention Centre, Aripo. The establishment of the SOT is in response to a number of security and related challenges including two escape incidents and several detainee disturbances, and the resultant need to have a dedicated cadre of Detention Officers readily available to effectively respond to such challenges.	Yes	The SOT provides the IDC with a contingent of specially trained and equipped Detention Officers, that are fully prepared at all times to rapidly respond to emergency and related situations within the Centre. It shall be headed by a Detention Officer II, referred to as the Team Leader, and staffed by specially selected Detention Officers. The Group will generally be scheduled for duty during the 6am to 6pm period, but will remain on call thereafter.

APPENDIX V

COMPLIANCE TO

OSHA SECTIONS

31 TO 45B

Section No.	OSHA Section	Compliance/ Non-Compliance (Yes/No)	Current Standard
31	Every industrial establishment shall be kept clean and free from effluvia arising from any drain, sanitary convenience or other source, and, without prejudice to the generality of the foregoing provision-		
	(a) accumulations of dirt and refuse shall be removed daily, where practicable, by suitable methods from the floors, benches, furniture, furnishings and fittings of workrooms, and from the staircases and passages;	(a) Yes	There three (3) Custodians assigned to the Detention Centre.
	(b) the floors of every workroom shall be kept clean and properly maintained;	(b) Yes	The floor are swept and mopped daily.
	(c) effective means shall be provided, maintained and used to prevent the breeding of insects, rats, mice or other vermin; and (d) effective means shall be provided and maintained for the draining of wet floors and yards, where necessary.	(c) No (d) No	Improper garbage disposal, no pest control. Exterior drains are not properly maintained.
32	Respiratory protection of an approved standard shall be provided and maintained, where necessary, for use by all persons in the industrial establishment.	Yes	Respirators are provided if there are out breaks.
33	(1) In every part of an industrial establishment where employees are working or passing, there shall be provided and maintained sufficient and suitable lighting, natural or artificial, or both, in accordance with approved standards.	(a) Yes	Good lighting throughout the establishment.
	(2) In every industrial establishment, effective provision shall, so far as is practicable, be made for the prevention of-	2 (a) Yes	

	(a) glare, either directly from a source of light or by reflection from a smooth or polished surface; and (b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any person. (3) In every industrial establishment, all glazed windows and sky lights used for the lighting of workrooms shall be kept clean from inside and outside and shall be free from any obstruction.	2 (b) Yes N/A	No glare through windows or shining floors. There are no areas where shadows are formed. There are no glazed windows or sky lights.
34	(1) Every owner, occupier or employer shall take adequate steps to prevent hearing impairment caused by noise, and diseases caused by vibration, from occurring to persons in, or in the vicinity of, his industrial establishment and shall comply with such directives as- (a) the Chief Inspector may issue an order to reduce the level of noise or vibration generated by a machine, device or process; and (b) the Chief Medical Officer may issue an order to protect persons employed from hearing impairment caused by noise or from diseases caused by vibration. (2) It shall be the duty of the owner, occupier or employer- (a) to ensure that all protective equipment necessary for compliance with subsection (1) is worn or used by employees at all appropriate times; (b) to arrange for the initial and periodic medical examination and assessment of those employees who are exposed to the risk of injury to their hearing or of contracting a disease caused by vibration; (c) to keep a record of the results of examinations and assessments under paragraph (b) which shall include audiometric tests and the monitoring of the work environment; and (d) to arrange programmes for hearing conservation.	1 (a) N/A 1 (b) N/A 2 (a) N/A 2 (b) N/A 2 (c) N/A 2 (d) N/A	There are no machines nor equipment to produce noise from vibrations at the Detention Centre.

35	(1) An industrial establishment shall not be so overcrowded as to cause risk of injury to the health of the persons employed therein.	Yes	There is no overcrowding at this present time at the Detention Centre.-
	(2) Without prejudice to the generality of subsection (1) in every workroom or other work space in a factory there shall be allowed for every person employed in the room or space not less than eleven and a half cubic metres of space, except that in any workroom or other work space with not less than one side, or the equivalent area of openings, being not less than twenty-five per cent of the total area of all sides of the room or space, open to the outer air the amount of space allowed for every person employed in the room or space shall not be less than seven and a half cubic metres.	Yes	Some areas may have too much furniture. The accommodation was not designed as a Detention Centre
	(3) In calculating, for the purposes of this section, the amount of cubic space in any workroom or work space, no space more than three metres from the floor shall be taken into account, and, where a room contains a gallery in which persons are employed, the gallery shall be treated for the purposes of this section as if it were partitioned off from the remainder of the room and form a separate room.	Yes	
	(4) There shall be posted in every workroom a notice specifying the number of persons who may, under the provisions of this section, be employed in that room.	No	There are no notices provided at the Detention Centre.
36	Every occupier of an industrial establishment that is not ventilated by a functioning air-conditioning system shall secure and maintain therein adequate and suitable ventilation by the circulation of fresh air.	Yes	Where there are no Air Condition Units, adequate ventilation is provided.
37	(1) Where, after the commencement of this Act, a person seeks employment, or is already employed, in an industrial establishment, he may be required by the employer to undergo a medical examination as a pre-condition of permanent employment, or to determine fitness for work, except in such shops or	Yes	All prospective Detention Officers undergo SRP Medical examination except those that were previous service personnel.

	places of work as the Minister may, by Order, exempt. (2) The cost of the medical examination shall be borne by the employer. (3) Where a medical inspector is of the opinion that the health of a person employed in an industrial establishment has been injured by reason of the nature of work he is called upon to do, the medical inspector may serve on the employer a written notice requiring him to permit a medical examination of that person, who may or may not submit to that examination. (4) The notice under subsection (3) shall name the place where the medical examination is to be conducted and the date and time when it will begin and, if the examination is to be conducted at the industrial establishment, the occupier shall provide suitable accommodation for the conduct of the examination. (5) In this section, "medical examination" may include pathological, biochemical, physiological, radiological and audiometric tests and other relevant investigations.	Yes Yes Yes Yes	
38	Where the Minister is advised by the medical inspector and is of the opinion- (a) that in any industrial establishment- i. a case of illness has occurred which he has reason to believe may be due to the nature of a process or other conditions of work; ii. by reason of changes in any process or in the substances used, or of the introduction of a new process, there may be risk of injury to the health of employees in that process; or iii. young persons are or are about to be employed in work which may cause risk of injury to their health; or	a (i) N/A a (ii) N/A a (iii) N/A	

	(b) that there may be risk of injury to the health of employees in an industrial establishment- i. from any substance or material brought to the industrial establishment to be used or handled therein; or ii. from any change of conditions of work or other conditions in the industrial establishment, he may make Regulations specifying the arrangements to be made for the medical supervision of those employees or young persons, as the case may be, or any class thereof.	b (i) N/A b (ii) N/A	
39	(1) In every factory, effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all persons employed therein, a sufficient supply of cool, wholesome, drinking water. (2) Except as otherwise permitted by the Chief Inspector, in every factory there shall be legibly and conspicuously displayed near any tank, pipe or other source of water or liquid unfit for human consumption, a notice to that effect.	No N/A	Presently, there is no potable water or supply of cool wholesome drinking water provided.
40	The occupier of every factory shall provide and maintain separately for men and women employed therein, adequate, clean and easily accessible washing facilities which are provided with soap and suitable hand drying materials or devices and such other provisions as are prescribed.	Yes	
41	The occupier of every factory shall – (a) provide and maintain separately for men and women employed therein adequate, clean and easily accessible sanitary conveniences; (b) provide and maintain suitable receptacles or disposal units for use by women; (c) provide adequate lighting and ventilation in sanitary conveniences and an open or ventilated space	(a) Yes (b) Yes (c) Yes	There are six (6) Male toilets and baths and three (3) Female toilets and baths

	separating workrooms from such conveniences; and (d) provide safe and covered access to sanitary conveniences.	Yes	
42	In every factory, there shall be provided and maintained, distinct and apart from any sanitary convenience or lunchroom and separately for the use of men and women, adequate and suitable changing rooms with locks on the inside and accommodation for their clothing not worn during working hours.	Yes	There are separate male and Female Dormitories.
43	(1) In every factory, there shall be provided and maintained so as to be readily accessible during all working hours, such number of fully equipped first-aid boxes or cupboards as may be prescribed.	N/A	There is a Medical Room which includes an examination room, administrative office and storage area. This area is provided for medical treatment of detainees as well as first aid treatment for officers. There is also an ambulance stationed at the Detention Centre.
	(2) The Chief Inspector shall, where necessary, direct in writing the occupier of a factory to provide for deluge showers, eye baths and other similar first-aid devices.	N/A	
	(3) Each first-aid box or cupboard shall be under the control of responsible persons who are trained in first-aid treatment and retested every three years and who shall always be readily available during the working hours of the factory.	N/A	
	(4) In every factory or industrial estate where there is a risk as determined in accordance with section 13A, there shall be provided and maintained emergency health facilities and a first aid room of a prescribed size, containing the prescribed equipment and being in the charge of such medical and nursing staff as may be prescribed.	Yes	There are no hazardous chemicals being used at the establishment
	(4A) The Chief Inspector may direct the manager of an industrial estate to comply with subsection (4).	4 (a) N/A	
	(5) Where the factory provides a first-aid room and an ambulance, it may be exempt by the Chief Inspector from subsections (1) and (3).	Yes	
	(6) In this section “industrial estate” means any land with suitable infrastructure such as roads, water or power, divided into	N/A	

	plots for sale or rental for entrepreneurs to build factories or to occupy existing buildings thereon for the purpose of storage, processing or manufacture of products or repair of articles.		
44	Every occupier in whose factory there is ordinarily employed a total of more than two hundred and fifty persons, may provide and maintain for the use of those employees therein a canteen equipped and operated in the manner that may be prescribed by agreement between the employer, employee and union.	N/A	
45	(1) In every factory the occupier shall provide and maintain for the persons employed therein, adequate and suitable restrooms or lunchrooms and lunchrooms shall be convenient for the eating of meals and shall be provided with adequate lighting, ventilation and drinking water. (2) An occupier who provides a canteen in accordance with section 44 shall be regarded as having satisfied the requirements of subsection (1).	Yes N/A	The furnishings and equipment in the lunchroom are in need of urgent upgrading
45A	(1) This Part applies to factory in which is employed more than five people. (2) An occupier of a factory in which is employed five persons or less shall ensure that the changing room or sanitary convenience can be locked from the inside.	Yes Yes	There are Male and Female Dormitories for officers
45B	Where it appears to the Chief Inspector that in an industrial establishment or a factory with five or less employees any provisions of this Part is by reason of special circumstances appropriate or adequate for the purpose, he may direct that the occupier of that industrial establishment or an employer therein comply with those provisions or that the provisions shall apply as varied by his direction.	N/A	

APPENDIX VI IDC DAILY MEAL PLANS

IDC WEEKLY MENU INFORMATION
MARCH 4-10, 2018

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Breakfast	Cheese Spread Sandwich In 4" Buns Tea/Juice	Hops C/W Turkey Slices Tea/Juice	Saltfish Buljol In 4" Buns Tea/Juice	Tuna Spread In 4" Buns Tea/Juice	Regular Chicken Hot Dogs Cucumber Relish Tea/Juice	Hot Tuna Salad 4" Buns Tea/Juice	Chow Mein With Bologna 4" Buns Tea/Juice
Lunch	Baked Chicken Stewed Pigeon Peas Carrot Rice Potato Salad	Stewed Lamb Saffron Rice Stewed Lentils Fresh Salad	Stewed Goat Stewed Black-eyed Peas Veg. Rice Fresh Salad	Fried Fish With Curry Sauce Curried Bodhi Carrot Potato Steamed Rice Fresh Salad	Curry Stew Turkey, Spinach Rice Dhal Fresh Salad	Saffron Rice With Mixed Veg, Fried Fish In Creole Sauce Sautéed Veg.	Stewed Turkey Wings Stewed Pigeon Peas Steam Rice Fresh Salad
Dinner	Chicken Burger /W Cucumber Relish, French Fries, Juice	Minced Chicken In Tomato Sauce Elbow Buttered Macaroni, Juice	Jumbo Hot Dogs, French Fries, Juice	Garden Potato Stewed Saltfish, Juice	Fried Chicken With Bar B Que Sauce Macaroni Pie, Sautéed Veg, Juice	Seasoned Mashed Potato , Baked Beans, Chicken Nuggets, Juice	Vegetable Soup With Dinner Rolls, Juice

MARCH 11-17, 2018

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Breakfast	Cheese Spread Sandwiches Buns Tea Juice	Hops With Turkey Slices Juice/ Tea	Sautéed Chicken Franks With Tomato Carrots Onion Buns Tea/ Juice	Tuna Spread In Buns, Tea/ Juice	Regular Chicken Hot Dogs, Cucumber Relish, Tea, Juice	Cheese Spread Sandwiches Buns Tea Juice	Hot Tuna Salad, Buns, Tea/ Juice
Lunch	Fried Chicken Fried Rice Chunky Veg Macaroni Salad	Curried Goat And Potato Spinach Rice Dhal Fresh Salad	Stew Lamb With Vegetable pelau, Fresh Salad	Fried Fish With Creole Sauce, Stew Lentils, Steamed Rice, Sautéed Veg	Stew Turkey, Red Bean Rice, Fresh Salad	Fried Fish In Bar B Que Sauce, Fried Rice, Chow Mein	Stewed Lamb, Stew Black Eyed Peas, Steamed Rice, Fresh Salad
Dinner	Vegetable Lo Mein Sweet And Sour Soya Juice	Vegetable Lo Mein Sweet And Sour Soya Juice	Garden Potato With Carrots And Parsley, Strip Chicken Breast With Chunky Veg, Juice	Jamaican Stew, Spaghetti Delight (Mixed Veg), Juice	Mashed Potato, Chicken Nuggets, Stewed Baked Beans, Juice	Provision Oil Down And Stewed Saltfish, Juice	Minced Chicken In Tomato Sauce, Elbow Macaroni With Mix Veg, Juice

NB: Special Diets are supplied based on the recommendation of the Medical Doctor assigned to the centre.

APPENDIX VII USE OF FORCE POLICY



Police Orders by Dr. D. Gibbs
Commissioner of Police
Police Administration Building
Cor. Edward & Sackville Streets
Port of Spain
Wednesday 18th May 2011

This is an official document entrusted to members and civilian employees of the Police Service and is not for publication in the Press)

No. 92

Departmental Order

PART I - NIL

PART II

Trinidad and Tobago Police Service



Use of Force Policy

Page | 1

Use of Force Policy

1.0 Introduction

Police officers of the Trinidad and Tobago Police Service have the invested authority through the Police Service Act 2006, the Standing Orders and the Constitution of Trinidad and Tobago in the Use of Force. The provisions outlined in this Policy are intended to supplement these existing legislations and guide officers to react appropriately when confronted with a situation which requires some degree of force. It is the policy of the Trinidad and Tobago Police Service that law enforcement officers will use only that force which is reasonable and necessary, and at all times seek to protect the safety and security of himself/herself and others in the performance of official duties.

Sound judgment and the appropriate exercise of discretion will always be the foundation of police officers' decision in varying situations regarding the possible Use of Force. Deciding whether to utilize force in the performance of official duties is among the most critical decisions made by law enforcement officers. It is a decision which is made under difficult, often unpredictable and unique circumstances. It is not the intention of this policy to entirely replace judgment and discretion with detailed policy provisions.

The Trinidad and Tobago Police Service recognizes that the duties of Police Officers may involve the use of some level of force and this policy supports the lawful use of reasonable and appropriate force by officers in the performance of their duty. The use of force that is not lawful, reasonable and appropriate, is not supported by this policy and will not be tolerated.

2.0 Definitions

- a. *Approved Weapon: a device or instrument, the primary function of which is intended to be the application of force to a person, and which an officer has received permission from the Trinidad and Tobago Police Service to carry and use in the discharge of that officer's duties, and for which the officer has*
 - i. *obtained training in the technical, mechanical and physical aspects of the device or instrument; and*
 - ii. *developed a knowledge and understanding of the law, rules and regulations regarding the use of the particular device or instrument.*
- b. *Chemical Agents: chemical irritants or combinations of chemical irritants.*

- c. **Deadly Force:** All force applied by an officer that the officer knows, or reasonably should know, creates a substantial risk of causing death or grievous bodily harm to a person.
- d. **Firearm:** means a firearm as defined in the Firearms Act of Trinidad and Tobago.
- e. **Grievous Bodily Harm:** Bodily injury which creates a high probability of death, or which causes serious, permanent disfigurement, or which causes a permanent or protracted loss or impairment of any bodily organ or other serious bodily harm.
- f. **Impact Weapons:** objects and instruments that are used, or designed to be used, to apply force to the person of another by coming into physical contact with that person.
- g. **Intermediate Weapon:** means any weapon authorized for use by a member of the Trinidad and Tobago Police Service, other than;
 - i. a firearm used as described, authorized or referred to under this policy, or
 - ii. a weapon that when used in its ordinary and intended manner is as likely to cause grievous bodily harm or death to a person as a firearm referred to in paragraph (i) above

and includes a firearm used with ammunition designed to be discharged with a projectile that is not designed or intended to cause grievous bodily harm or death to a person.
- h. **Non-Deadly Force:** All force applied by an officer that is not intended to cause, nor create a substantial risk of causing death or grievous bodily harm to a person.
- i. **Reasonable Belief:** An objective assessment based upon an evaluation of how a reasonable law enforcement officer with comparable training and experience would react to, or draw inferences from, the facts and circumstances confronting and known by the law enforcement officer at the scene.
- j. **Weapon:** anything that is used, intended to be used, or designed to be used, to apply force to the person of another.

3.0 Use of Force Policy

i. Use of Force

- a. A police officer in determining to use force, shall be guided by the principle that the degree of force employed in any situation should be reasonably necessary to :
 - i. Protect the officer, or other person or persons, from unlawful force
 - ii. Overcome resistance directed at the officer or others
 - iii. Effect other lawful objectives, such as to make an arrest
 - iv. Protect property
- b. To assist the police officer in deciding the level of force appropriate in various circumstances, the following guidelines are established:
 - i. Officers shall not resort to the use of force unless such use is necessary in the execution of their duties and cannot reasonably be accomplished by non-violent means,
 - ii. The decision as to whether force is to be used, and the amount to be applied, shall rest solely with the officer involved in the incident,
 - iii. A reasonable assessment of the prevailing circumstances should be made by the officer in deciding the level of force to be used
 - iv. Officers shall not use any more force than is reasonably necessary under the circumstances to accomplish their lawful objectives as cited in 2(a) above.
 - v. Officers must exhaust all other reasonable means before resorting to the use of force.

The following Use of Force framework provides a guide to assist officers in assessing the situation to determine the level of force to be applied.

Use of Force Framework

Stage 1

PERCEIVE

Officer considers all available information and develops a preliminary assessment of the situation

Stage 2

ASSESS

Officer immediately processes the information based on his knowledge, experience and training and weighs his options.

Stage 3

PLAN

Officer considers and selects best course of action available based on his assessment of the situation.

Stage 4

ACT

Officer acts in response to the level of threat encountered. The action will be dictated by the officer's assessment of the situation but may be halted, revised, delayed or replaced with an alternate course of action as determined by the officer as a result of a change in the circumstances being encountered.

The Use of Force Options Model indicates the degree of force that can be applied by police officers in the execution of their duties.



Presence	-	Maintaining a passive, on site presence.
Communication	-	Talking a subject into compliance; avoids danger of a physical confrontation.
Escort technique	-	If dialogue fails, use low level compliance procedure. Non-obtrusive, non- violent in nature.
Mechanical Control-		Using physical force to subdue a subject and may include applying physical restraints.

Chemical Irritants	-	Use of substances such as pepper spray or tear gas to gain control of a subject
Impact weapon	-	Includes the use of a weapon such as a baton or projectile.
Deadly force-		Force used for the purpose of causing or which has the substantial risk of causing death or grievous bodily harm.

The TTPS Use of Force Options Model is included in this policy at Appendix 'A'.

ii. Use of Deadly Force

- a. An officer may resort to the use of deadly force when the officer reasonably believes such action is immediately necessary to protect himself or others from imminent danger of death or grievous bodily harm.
- b. An officer may use deadly force to prevent the escape of a suspect:
 - i. whom the officer has probable cause to believe has committed an offence in which the suspect caused, or attempted to cause death or grievous bodily harm to any person; and
 - ii. who will pose an imminent danger of death or grievous bodily harm to any person, or persons, should the escape succeed; and
 - iii. when the use of deadly force presents no substantial risk of injury to innocent persons.
- c. Where feasible, an officer should identify himself/herself and state his/her intention to shoot before using a firearm.

iii. Restrictions on the Use of Force

- a. An officer is under no obligation to retreat or desist when resistance is encountered or threatened, unless circumstances exist which would make retreating an appropriate action.
- b. An officer shall not resort to the use of deadly force unless the officer reasonably believes that a less lethal use of force would not avert the imminent danger of death or serious bodily harm to any person or persons.

- c. An officer shall not use deadly force to subdue persons whose actions are only destructive to property.
- d. Deadly force shall not be used against persons whose conduct is injurious only to themselves.
- e. An officer shall not discharge a weapon as a signal for help or as a warning shot.
- f. An officer shall not fire from a moving vehicle, or at the driver or occupant of a moving vehicle unless the officer reasonably believes:
 - i. there exists an imminent danger of death or serious bodily harm to the officer or another person; and
 - ii. no other means are available at that time to avert or eliminate the danger.
- g. An officer shall not fire a weapon solely to disable moving vehicles.

4.0 Exhibiting holstered firearms

Unnecessarily or prematurely drawing a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. A officer's decision to exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is substantial risk and the situation may escalate to the point where deadly force may be justified.

When an officer has determined that the circumstances create a reasonable belief that the use of deadly force is not necessary, the officer should, as soon as practicable, secure or holster the firearm.

5.0 Psychological care

All Use of Force incidents affect each officer differently and may result in varied levels of stress and manifestations of symptoms of post-trauma stress disorder (PTSD). Within 24 hours of a Use of Force incident involving the use of deadly force, the supervisor of the affected officer/s must:

- i. Engage the involved officers in a mandatory debriefing guided by TTPS social workers.
- ii. Arrange for counseling for the officers from the police social workers or psychologist for assistance in dealing with any after-effects of the incident.

If necessary, this courtesy should also be extended to family members of the affected officer.

In instances where deadly force was not used but where based on the circumstances of the incident it is determined that psychological care may be warranted, the supervisor of the affected officer/s must activate the above procedure.

6.0 Medical aid after use of force

Where there is an injury or an alleged injury as a result of the Use of Force the officer(s) shall immediately:

- i. make arrangements to convey the injured to obtain medical attention;
- ii. secure the crime scene;
- iii. notify his/her supervisor; and
- iv. where death occurs, the District Medical Officer shall be notified and summoned to the scene.

7.0 Injury exacerbated by the Use of Force

Certain restraint positions increase the risk of death to persons who may be under the influence of drugs or who may be in a mentally altered state. Prolonged struggles and elevated levels of force applied can accelerate the life-threatening aspects of this condition. In these circumstances where individuals exhibit medical conditions of extreme violent behaviors the officer shall:

- i. Delay attempts to restrain these individuals until sufficient assistance is on hand; and
- ii. Immediately after restraint, these individuals should be seated upright to relieve breathing, and transported to a medical facility.

8.0 Reporting requirements

In all instances when chemical irritants, impact weapons or deadly force is applied, each officer who has initiated such action must complete the attached Use of Force Report (Appendix 1) in triplicate and submit it to his/her supervisor within twenty-four hours of the occurrence or as soon as practicable.

In the case of incidents involving police shootings the protocol outlined in Departmental Order No. 176 of 2008 is to be adopted in reporting the incident.

9.0 Training requirements

The Trinidad and Tobago Police Service will conduct training for all police officers on the lawful and appropriate Use of Force. This training will be designed and delivered in accordance with the guidelines outlined in this policy and all existing legislation.

A periodic retraining program will be implemented to ensure that officers are aware of this policy and remain current in the applicable use of force techniques and tools.

10.0 Sanctions

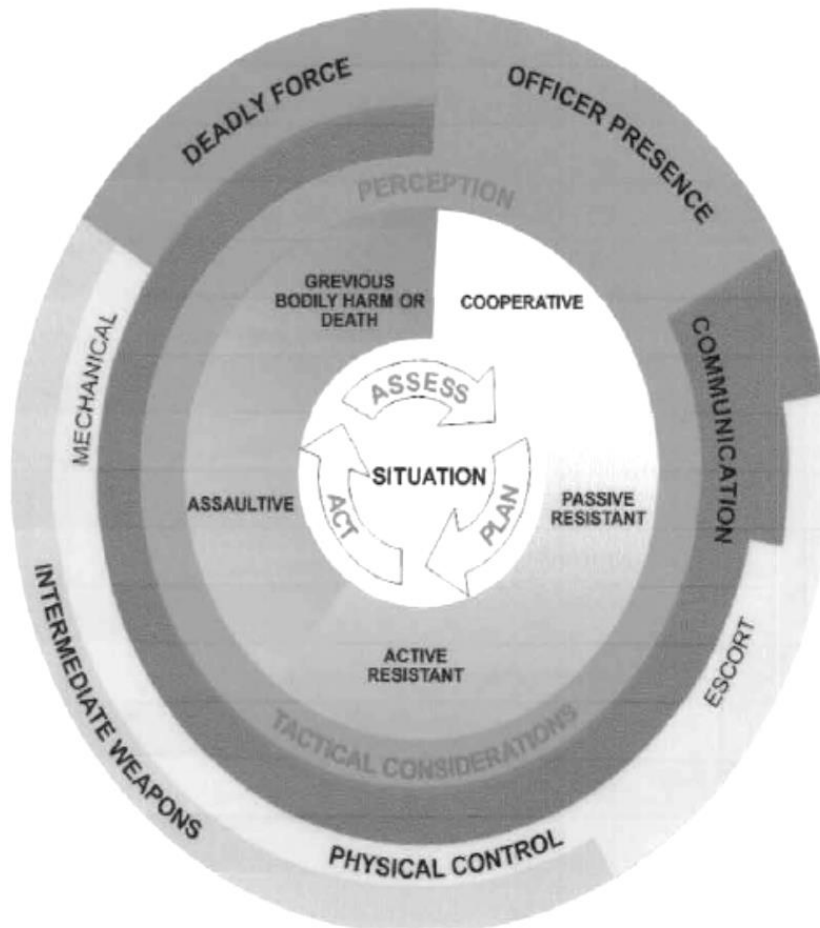
Officers of the Trinidad and Tobago Police Service are guided by the Police Service Regulations and the Standing Orders in the performance of their duties, and in the event of a breach, disciplinary proceedings would be initiated. In the same context, this policy supplements both the Police Service Regulations and the Standing orders and any officer who is proven to deviate from the guidelines outlined in this policy shall be in breach of this policy and held accountable and/or criminally liable for their actions.

Within twenty-four (24) hours of any reported incident of use of force, the Divisional Commander shall appoint an investigating officer of the rank of Assistant Superintendent or above and consistent with the provisions of Departmental Order No. 176 of 2008. The investigating officer shall submit a report no later than seven (7) days after being appointed.

On receipt of the report of the investigating officer, if the report reveals that excessive force was used, the Divisional Commander shall cause disciplinary proceedings to be initiated on the officer accused of using excessive force. These disciplinary proceedings, however, will be without prejudice to any criminal charges that may be initiated against the officer before the Courts.

Appendix A

TTPS Use of Force Operational Model



This Force Options Model is to be used for the training of all TTPS members and directly relates to the TTPS Use of Force Policy.

APPENDIX VIII NUMBER OF IMMIGRATION DETAINEES FROM 2015 TO 2017

Appendix VIII Table 1 The Current Number of Detainees as At March 19, 2018 at the Immigration Detention Centre

Country/Nationality	Male	Female	Total
China	2	1	3
Colombia	1	1	2
Dominican Republic	0	1	1
Estonia	1	0	1
Gambia	1	0	1
Ghana	5	0	5
Grenada	1	1	2
Guyana	1	1	2
India	1	0	1
Jamaica	5	0	5
Latvia	1	0	1
Nigeria	19	0	19
Sierra Leone	1	0	1
United States Of America	1	0	1
Venezuela	51	30	81
Total	91	35	126

Appendix VIII Table 2 The Monthly Intake Of Male Detainees For The Year 2015 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Bangladesh	1	1			1								3
Canada	1												1
China	2	5	10	3	8	3	1	6		8	12		58
Colombia				1		2	1			2	2		8
Cuba	3						1		5	1	1		11

Dominica							1			1			2
Dominican Republic	2	1	1		5		4	4	1	8	4	1	31
Estonia										1			1
England				1									1
French Guiana	1												1
Germany	1			1									2
Ghana	1			2									3
Great Britain			1										1
Grenada	3	1	4	2		1	2	1		2	6		22
Guyana	7	10	23	7	9	9	5	10	7	11	31	4	133
India			2					1					3
Jamaica	14	15	16	16	13	10	6	2	11	8	30	2	143
Netherlands				3									3
Nigeria	2	1	3	1	1	3	2	1	2		4	1	21
Philippines	2										1		3
Sri Lanka	1								2				3
St. Lucia	2								1				3
St. Vincent & Grenadines	3	1		1	2			1	1		2	2	13
Spain	1					1							2
Suriname			1										1
Syria			1										1
United States Of America										1			1
Venezuela	1	2	2	1	3	3	3		1	11	1	1	29
Vietnam	2	1	4	1				1	1				10
Total	50	38	68	40	42	32	26	27	32	54	94	11	514

Appendix VIII Table 3 The Monthly Intake Of Female Detainees For The Year 2015 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Barbados		1											1
Canada		1											1
China			2	1		1		6		2	2		14
Colombia		1				1					2		4
Cuba						1			1		1		3
Dominica									1		2		3
Dominican Republic	4	4	2		5	4		2	2	11	30	2	66
England									2				2
Grenada	1		1				2	1			2		7
Guyana	3			2		5	2	1	2	1	3	5	24
Jamaica	2	1	2	5	1	2		3	1	2	21	4	44
Nigeria			1								1		2
St. Vincent & Grenadines						2					1		3
United States Of America									1				1
Vietnam		2	1		4				2	2	2	1	14
Total	10	10	9	8	10	16	4	13	12	18	67	12	189

Appendix VIII Table 4 The Monthly Intake Of Male Detainees For The Year 2016 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Antigua And Barbuda			1	1									2
Bangladesh			13	7		1						1	22
Barbados	1												1
Brazil										1			1
Cameroon	1				1				1				3

Canada	1												1
China	6	8	15	11	2	7	5		7	16	11	3	91
Colombia			3		2				1		2		8
Cuba		8		1	2			1	1	11	2	10	36
Denmark								1					1
Dominica			1	1									2
Dominican Republic	1	3	2	2	5	3	1		1	1			19
England		1		1	1				1				4
Gambia	1		1				1						3
Ghana			1				1	3			2		7
Grenada	3	2		5	5	2	3	4	1	4	2		31
Guyana	17	21	17	9	18	15	10	15	1	15	13	8	159
Indonesia				1									1
India	1	3	1		1	1				4	6	3	20
Jamaica	14	22	19	12	22	15	19	10	8	14	14	7	176
Nigeria	3	4	3		3	2	3	2	1	3	4		28
Pakistan						1	2						3
Scotland							1						1
St. Lucia				1							1		2
St. Vincent & Grenadines	1	2		1	3	4		3		1		4	19
Sierra Leone												1	1
South Africa											1		1
Spain								1	1				2
Syria	1				1								2
Uganda	1									1			2
United States Of America			1										1
Venezuela	2	9		13	13	4	16	8	3	26	22	9	125
Vietnam			2	2					6				10
Total	54	83	80	68	79	55	62	48	33	97	80	46	785

Appendix VIII Table 5 The Monthly Intake Of Female Detainees For The Year 2016 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Cameroon									2				2
Canada												1	1
China	3	2	6	4	1	2			9		4	5	36
Colombia	1	2		4	1	1		5	2				16
Cuba		5	1	1					2	3		2	14
Dominican Republic	5	3	3	4	31	13	11	4	5	3	1		83
Estonia							1						1
Grenada	1	1	1	1	1						1		6
Guyana		2	4	4	6	5	4	2	1	1	2	2	33
India		1									1		2
Jamaica	3	9	7	8	8	6	8	1		5	3	3	61
Latvia												1	1
Pakistan								1	2				3
St. Lucia												2	2
St. Vincent & Grenadines						1				1			2
Sierra Leone		1											1
Venezuela		10	1	5	23	10	10	3	3	13	12	7	97
Total	13	36	23	31	71	38	34	16	26	26	24	23	361

Appendix VIII Table 6 The Monthly Intake Of Male Detainees For The Year 2017 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Bangladesh	2		1										3
Bermuda	1		1										2
Bulgaria									2				2
China	8	15	7		5	1		3	6				45
Colombia		1		3							1	1	6
Cuba	3	1	2		1	1		2		1			11
Dominica							1						1
Dominican Republic	4	3	3	2	1				3				16
Gambia							1						1
Georgia							1	2					3
Ghana										2			2
Grenada	1	1	4	3	2			2	3				16
Guyana	5	23	5	4	8		1	6	2	3	1	2	60
Haiti	1							1					2
India		1			3							1	5
Jamaica	4	17	8	7	9		5	6	5	3			64
Latvia											1		1
Nigeria			2	1	1					3			7
St. Vincent & Grenadines	2					1							3
Spain		1											1
Syria	1												1
United Kingdom		1											1
United States Of America	1												1
Venezuela	19	6	14	21	13	1	4	15	7	17	9	19	145
Vietnam	1												1
Total	53	70	47	41	43	4	13	37	28	29	12	23	400

Appendix VIII Table 7 The Monthly Intake Of Female Detainees For The Year 2017 At The IDC

Country/Nationality	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Total
Cameroon					1								1
Canada										1			1
China	3	1	2						1				7
Colombia		1		2			2			3			8
Cuba	1									1			2
Dominican Republic	5	6	12	8	1	6	4	1	4	8	1		56
Guyana	1	4		2		2			1			2	12
Jamaica	1	3	2	1	1	1	2	3	1				15
St. Vincent & Grenadines						1							1
Venezuela	8	4	6	4	5	14	11	5	2	8	4	11	82
Total	19	19	22	17	8	24	19	9	9	21	5	13	185

APPENDIX IX RECOMMENDATI ONS FROM LIVING WATER COMMUNITY

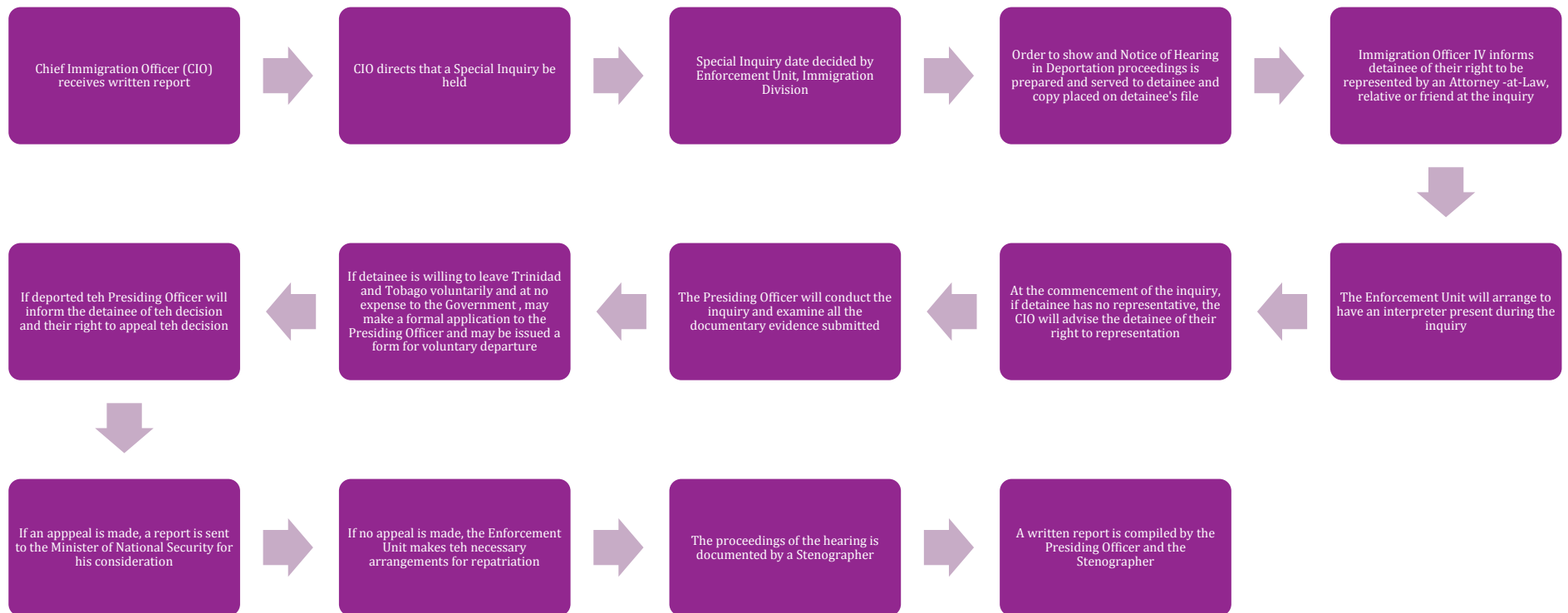
No.	LWC Recommendations
1	Given that Trinidad and Tobago's commitment to respecting human rights, as evidenced by its ratification and/or accession to key agreements which have secured these rights, namely The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR) and the 1951 Convention and Protocol Relating to the Status of Refugees, and given the potentially long-term negative impact of reports of human rights violations against refugees occurring on our shores, alternatives to detention should be considered.
2	As a signatory to the 1951 Convention Relating to the Status of Refugees, Trinidad and Tobago make clear its commitment to observing the principle of non- refoulement, namely that asylum-seekers and refugees should not be returned against their will to countries where their life or freedom would be threatened on the basis of their race, religion, nationality or membership of a particular social or political group and that immediately upon expressing a fear of return to their countries of origin, persons should be treated as asylum-seekers and protected from refoulement until their claims can be assessed. Asylum-seekers should also not be penalized for illegal entry, given, the grave circumstances which asylum seekers are often forced to flee, they do not always leave with their identification documents or enter designated ports of entry.
3	The detention of asylum-seekers must not be unlawful, arbitrary, or discriminatory and that the right to liberty, security and freedom of movement be recognized as also applying to asylum-seekers, and that conditions of detention be humane and dignified.
4	Trinidad and Tobago demonstrate its commitment to joining with the international community in implementing and abiding by UNHCR's Detention Guidelines , by ensuring regular and unfettered access of independent observers to IDC, ECRC and other immigration detention and interrogation sites such as immigration offices and police stations where persons are held on immigration charges.
5	Parliament empower the Trinidad and Tobago Ombudsman to launch an investigation into conditions at the Aripo IDC, the Santa Rosa ECRC and into the conditions at police stations where asylum-seekers are held or that a Prisons Ombudsman be appointed so to do.
6	A comprehensive review of all the detention centres through independent monitoring in partnership with civil society organizations along with the creation of a Working Group on Detention and Monitoring to ensure adherence to international standards and dignified treatment of detainees.
7	Alternatives to Detention be made available. There is currently one (1) document, which serves as such an instrument or outright release from detention. More asylum seekers should be able to live within the community without fear of arbitrary detention.
8	LWC further recommends that a maximum period of detention and release thereafter be prescribed in law and incorporated into the Immigration Act. Many states limit the period of detention as indefinite detention breaches fundamental human rights. The Directives 2008/115/EC and 2013/180/96 of the European Parliament and of the Council require Member States to utilise detention only as a last resort and to set a limited period for detention, that said period not exceeding six (6) months. LWC also recommends that parents (both paternal and maternal) and children should not be

	detained in order to preserve the right to family life as articulated in Section 4 of the Constitution.
9	LWC notes that the Refugee Policy observes the principle of non-detention and sets the prescribed maximum length of detention at ten (10) days. LWC recommends that thereafter, persons should be released on orders of supervision. In this regard, there should be a limit 59 Interim Standard Operating Procedures for the Protection of Asylum-Seekers and Refugees in Trinidad and Tobago.
10	LWC also suggests that a process is included in the SOPs whereby a weekly list of special inquiries scheduled for asylum-seekers is sent to LWC to ensure that LWC has adequate notice of same so that POCs can be afforded legal representation at these hearings. This will greatly improve the fairness of the special enquiry process.
11	In law it should be established that detention should be used only as a measure of last resort and only when alternatives are not applicable in each case. As such, Immigration officials would be required by law to consider less restrictive measures, explain why such measures are not applicable, and why the detention is necessary.
12	LWC recommends that asylum-seekers and refugees should not be automatically penalized for illegal entry or mechanisms used to legitimize their stay within the country. The requirement of the security deposit ought also to be waived for asylum-seekers and refugees (as before) as same will not return to their countries of origin once they are recognised as refugees. This demand also creates a financial burden on POCs who already cannot legally work and places them at risk of further vulnerabilities including arrest and detention.
13	As POCs who are charged with offences and are awaiting sentences at the prisons are detained at the IDC, LWC recommends their conditional release so they may look to their community to find means of satisfying their fines to circumvent prison sentences. LWC also recommends expeditious execution of warrants for the transfer of sentenced detainees from the IDC to the respective prison so as to avoid unnecessarily prolonged detention.
14	LWC recommends that if an individual has to remain at the IDC for a lengthy period of time pre-sentence, this time should be allocated to either their sentence or a reduction in their fine. This would entail legislative amendments, including of the Immigration Act.
15	International organizations and their implementing partners also ought to be granted access to the IDC, same ought to also be included in the SOPs. As such, LWC recommends observance of Rule 119 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) which requires that all persons detained be provided with or have access to legal representation.
16	Guidelines for detention ought to be established with a body doing consistent monitoring and reporting of conditions of detention to ensure minimum standards are maintained. LWC recommends that the Ombudsman of Trinidad and Tobago or some other authorized body in law exercise its jurisdiction over this to initiate a systemic

	independent investigation into the fairness of administrative procedures impacting the detention of detainees at the IDC.
17	LWC therefore recommends the establishment of a mechanism, possibly in the form of a Working Group and in partnership with civil society, mandated to undertake ongoing and independent monitoring and inspection of all detention centres, including prisons, to ensure adherence to international standards regarding the dignified treatment of detainees. This working group can assist the Government in establishing programs such as psycho-social counselling services to detainees as many among them, especially asylum-seekers, may have had traumatic experiences. A brochure outlining their rights and the asylum process can also be issued in their native languages.
18	LWC therefore recommends that an independent court or tribunal be established to adjudicate appeals in relation to immigration related matters. Section 30 states: <i>"Subject to section 31(3) no Court has jurisdiction to review, quash, reverse, restrain or otherwise interfere with any proceeding, decision or order of the Minister, the Chief Immigration Officer, a Special Inquiry Officer or an immigration officer had, made or given under the authority of and in accordance with this Act relating to the detention or deportation of any person, upon any ground whatsoever, unless such person is a citizen of Trinidad and Tobago or is a resident."</i>
19	Immigration Officers should be trained in international refugee protection, international migration laws, sensitized on how to interact with vulnerable migrants especially in the exercise of their duties, which must always be conducted in a manner that is reasonable and fair in light of international humanitarian principles. This training is articulated further in the three phased strategy contained in the 2014 Refugee Policy.
20	The aforementioned recommendations should be included in law, to harmonize the Immigration Act with the 1951 Refugee Convention. In the interim, same ought to be articulated in the Policy and the SOPs. This would place the burden of responsibility on the State to act in accordance with the law. This not only creates transparency, but a lawful mechanism for the authorities and likewise POCs to act upon.
21	The implementation of laws regarding asylum-seekers and refugees ought to be prioritized to ensure that the Government of Trinidad and Tobago is fulfilling its international obligations. Canada passed its new Immigration and Refugee Protection Act in 2001, which replaced their Immigration Act of 1976. The Immigration Act of Trinidad and Tobago entered into in 1976 needs to be updated in order to correspond with current realities and changes in global migration patterns.
22	The Refugee Policy which is already consistent with international law and best practice regarding the protection of asylum-seekers and refugees and referred to in the SOPs must be adhered to.

APPENDIX X IDC SPECIAL INQUIRY PROCESS

Figure 37
Special Inquiry Process



APPENDIX XI INTERIM STANDARD OPERATING PROCEDURES FOR THE PROTECTION OF ASYLUM-SEEKERS AND REFUGEES IN TRINIDAD AND TOBAGO⁴¹

⁴¹ These SOPs were developed by the International Affairs Unit, Ministry of National Security, UNHCHR and LWC have not been approved by Cabinet. Some procedures have changed since the introduction of these SOPs. SOPs will remain in effect until legislation is enacted and/or official approval of the National Policy to Address Refugee and Asylum Matters in Trinidad and Tobago.

Ministry of National Security

Interim Standard Operating Procedures (SOPs) for the Protection of Asylum-Seekers and Refugees in Trinidad and Tobago

2017

These Interim Standard Operating Procedures (SOPs) were developed and mutually agreed upon by the Immigration Division, Ministry of National Security, the United Nations High Commissioner for Refugees (UNHCR) in Trinidad and Tobago and the Partner for the UNHCR, the Living Water Community (LWC), in May 2017.

These SOP's are to guide the actions of the representatives of the LWC, UNHCR and the officers of the Immigration Division, pending the enactment of legislation to give effect to the 1951 *United Nations Convention Relating to the Status of Refugees* and in accordance with the *National Policy to Address Refugee and Asylum Matters in Trinidad and Tobago*, which was approved by the Cabinet of the Republic of Trinidad and Tobago in June 2014.

Primary Points of Contact of Key Stakeholders

Immigration Division - Ministry of National Security	Living Water Community (LWC)	United Nations High Commissioner for Refugees (UNHCR)
Chief Immigration Officer (Ag.)	Director	Protection Officer
Immigration Officer IV (Refugee Unit)	Assistant Director	Designated RSD Officers
Immigration Officer IV (Enforcement)	Coordinator	
Designated Officers	Senior Case Advocate	

Appendix I refers.

Part 1. Identification and Registration

Scenario 1 - Asylum-Seeker makes contact with the LWC.

The following procedure should be completed as soon as reasonably possible:

- (i) LWC receives asylum-seeker and conducts pre-screening;
- (ii) If the individual expresses a fear, or the LWC perceives such a fear of return to his country of origin or last habitual residence, the LWC will:

- a. apply its own internal procedures which include providing counselling on the asylum process to the applicant;
 - b. ensure the applicant, or the applicant's guardian, signs a Memorandum of Understanding (MOU) should they choose to apply for asylum (*Appendix II* refers);
 - c. open an individual file and make copies of the applicant's documents, if any (e.g. identification/travel documents);
 - d. evaluate the protection risks and psychosocial needs of the asylum-seeker;
 - e. forward all relevant documentation to register the applicant with the UNHCR, which shall issue an asylum-seeker certificate. The relevant documentation refers to:
 - o Copy of biodata page of passport and or any other identification, where available;
 - o Registration documents;
 - o Other certificates, as necessary.
 - f. forward all relevant documentation and information on the asylum-seeker to the identified Primary Points of Contacts at the Immigration Division. The relevant documentation refers to:
 - o A letter introducing the asylum-seeker and requesting issuance of an order of supervision;
 - o Copy of biodata page of passport and/or other identification, where available;
 - o Asylum-Seeker certificate;
 - o Other pertinent information.
- (iii) If the asylum seeker is an unaccompanied or separated child, the LWC will immediately contact the relevant authority and seek guardianship and temporary care arrangements in line with the best interests of the child. Steps a. – f. in part (ii) will then follow.

Scenario 2 - Asylum-seeker makes contact with the UNHCR

- (i) Should the asylum-seeker approach/be made known to the UNHCR office first, he/she will be referred to LWC for registration.
- (ii) The steps set out under scenario 1 above will then be followed.

Scenario 3 - Asylum-Seeker makes contact with an Immigration Officer

The following procedure should be followed as soon as reasonably possible:

- (i) If the individual expresses a fear, or the Immigration Officer perceives such a fear of return to his country of origin or last habitual residence, the Immigration Officer will

- contact one of the identified Primary Points of Contacts at the Refugee Unit, Immigration Division;
- (ii) One of the identified Primary Points of Contact at the Refugee Unit, Immigration Division will then contact the LWC to inform of the individual;
 - (iii) The Refugee Unit will then conduct a pre-screening interview, ideally within 48 hours (especially for ports of entry cases) and place the person on an Order of Supervision in the care of the LWC;
 - (iv) Should the asylum-seeker be an unaccompanied or separated child, the Immigration Division will immediately contact the relevant authority and place the child on an order of supervision, in the care of the relevant authority;
 - (v) The LWC will then apply its own internal procedures as outlined in scenario 1 a. – f. above.

Part 2. Immigration Procedures

- (i) The Refugee Unit, Immigration Division will:
 - a. receive notification regarding the individual claim for asylum.
 - b. conduct a background check on the person;
 - c. conduct an interview and place the individual(s) on Order(s) of Supervision), pending the outcome of UNHCR's refugee status determination procedure;
 - d. create an individual file (hard and soft file);
- (ii) However, if the individual is not an asylum-seeker, the Immigration Division will implement its usual procedures.
- (iii) If the individual is recognised as a refugee, the Immigration Division will:
 - a. update the file accordingly;
 - b. continue to renew the order of supervision, ideally with greater intervals afforded.
- (iv) If the individual is not recognised as a refugee, the Immigration Division will implement its usual procedures.

Part 3. Refugee Status Determination (RSD) Procedures

- (i) The UNHCR shall conduct the status determination as soon as reasonably possible and communicate the decision to the asylum-seeker:
 - a. If a positive determination has been made, a letter shall be presented to the refugee, in person, communicating this decision;
 - b. If a negative determination has been made, a letter shall be presented to the asylum-seeker, in person, communicating the denial, in the first instance.

The asylum-seeker has the option to appeal a first instance denial within 30 calendar days of receipt of the decision.

After a review of the appeal, the UNHCR shall communicate the decision of the appeal to the asylum-seeker:

- a. If the first instance denial has been overturned, a letter shall be presented to the refugee, in person, communicating this decision;
 - b. If the first instance denial has been upheld, a letter shall be presented to the asylum-seeker, in person, communicating the final denial.
- (ii) Communication in respect of the outcome of the Refugee Status Determination procedure shall be forwarded immediately, along with the relevant documentation, to the Immigration Division and the LWC, once the asylum-seeker/refugee has been informed.

Part 4. Ongoing Case Management

Post registration, case management shall be ongoing and cooperation and communication amongst all parties shall be with the aim of providing resolution to asylum-seeker and refugee concerns and facilitating access to rights to the extent possible.

SOPs Implementation Notes

- (a) These SOPs will take immediate effect upon notification of the approval by the Permanent Secretary, Ministry of National Security to the relevant Units/Divisions/Organisations and will replace the previous version approved in 2015.
- (b) Changes to the SOPs can occur under the sole directive of the Permanent Secretary, Ministry of National Security.
- (c) These SOPs will remain in effect until such time that relevant legislation is enacted or upon official implementation of the Refugee Status Determination (RSD) mechanism outlined in the *National Policy to Address Refugee and Asylum Matters in Trinidad and Tobago*.
- (d) The Ministry of National Security (i.e., the Deputy Permanent Secretary, Immigration Division, Legal Unit, International Affairs Unit) will convene a meeting once a month with the LWC and UNHCR to discuss policy implementation, procedures and any pertinent issues or trends. This meeting will take place on the 3rd Tuesday in each month at 10:00 a.m. at the Ministry or at another time/place which is mutually agreed upon.

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- (e) Tripartite Meetings with the LWC, UNHCR and the Immigration Division are to be held on the second week of each month to ensure case management and resolution and ongoing communication amongst key stakeholders regarding cases and procedures.
 - (f) Updated contact information for Points of Contact identified shall be shared with all parties and changes in personnel are to be communicated in a timely manner.
 - (g) Procedures may vary in any instance of mass influx.