

**VERBATIM NOTES OF THE PUBLIC HEARING OF THE JOINT  
 SELECT COMMITTEE APPOINTED TO INQUIRE INTO AND  
 REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS  
 AND STATUTORY AUTHORITIES (INCLUDING THE THA) HELD  
 IN THE ANR ROBINSON ROOM (EAST), 9<sup>TH</sup> FLOOR, TOWER D,  
 INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON  
 ROAD, PORT OF SPAIN, ON WEDNESDAY FEBRUARY 24, 2016**

**10.00 a.m.:** *Meeting resumed.*

**PRESENT**

|                               |                          |
|-------------------------------|--------------------------|
| Mr. H. R. Ian Roach           | Chairman                 |
| Miss Ramona Ramdial           | Vice-Chairman            |
| Mr. Faris Al-Rawi             | Member                   |
| Mrs. Jennifer Baptiste-Primus | Member                   |
| Mr. Darryl Smith              | Member                   |
| Mr. Nigel De Freitas          | Member                   |
| Mr. Daniel Solomon            | Member                   |
| Mr. Julien Ogilvie            | Secretary                |
| Ms. Khisha Peterkin           | Assistant Secretary      |
| Miss Gina Marajh              | Research Assistant (OJT) |

**ABSENT**

|                  |                           |
|------------------|---------------------------|
| Mr. Stuart Young | Member [ <i>Excused</i> ] |
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### **OFFICIALS OF THE POLICE COMPLAINTS AUTHORITY**

|                          |                               |
|--------------------------|-------------------------------|
| Mr. David West           | Director                      |
| Ms. Lisa-Marie Robertson | Head of Legal                 |
| Ms. Janet Best           | Manager, Finance and Accounts |
| Ms. Crisaly Rajpaulsingh | Human Resource Coordinator    |
| Mr. Wellington Virgil    | Investigations Consultant     |

**Mr. Chairman:** Good morning ladies and gentlemen. I will like to welcome you all to the Fourth Meeting of the Joint Select Committee on local authorities, service commissions and statutory authorities, including the THA. This is the first hearing of the Committee of this Eleventh Parliament. This hearing is being recorded and would be broadcast later on today via the Parliament channel. My name is HR Ian Roach. I am the Chairman of this Committee. I will invite other members of the Committee to introduce themselves.

*[Introductions]*

**Mr. Chairman:** I will like to welcome you members of the Police Complaints Authority to this meeting. Mr. David West, welcome. Could you introduce yourself, and other members of the PCA?

**Mr. West:** Good morning, Mr. Chairman, morning members. My name is David West. I am the Director of the Police Complaints Authority.

*[Introductions]*

**Mr. Chairman:** Welcome all. As you will know, the main objective of this

hearing is to enquire and determine the status of the implementation of the recommendations set out in the Twelfth Report of the JSC, on Ministries, Statutory Authorities and State Enterprises (Group 1), on the enquiry into the administration and the operations of the Police Complaints Authority. This report was presented to Parliament on March 31, 2015.

I will like to thank you Mr. West, for responding by the submissions of your written report, which I think was received by us on February 16, 2016. Mr. West, I will ask you to make a brief opening statement and we will proceed from there, thanks.

**Mr. West:** Thank you very much for your words, Mr. Chairman. We want to thank the Joint Select Committee on Ministries and Statutory Authorities and State Enterprises (Group 1), for having the PCA before you. The PCA is a public body and, therefore, we are open to public scrutiny. The Joint Select Committee is one of the means that we are opened to scrutiny, and we will answer and we want to clarify any matters that you all may have.

By way of introduction, the PCA was established by Act No. 8 of 2006, which was proclaimed on January 01, 2007. It repealed the former PCA, Act 1993. Mr. Chairman, the appointment of the first Director and Deputy Director was made on December 29, 2010. The former Director resigned in September 2014. I assumed office on November 07, 2014. The former Director's term had expired on December 28, 2014, and we await the appointment of a Deputy Director for the PCA.

By way of introduction, the long title to the Act, and I would like to

read it. It states that it is:

“An Act to establish an independent body to investigate criminal offences involving police officers, police corruption and serious police misconduct and for other related matters.”

I want the Committee and the public at large to realise and understand at the outset, that it is an independent body, and our remit is to investigate criminal offences involving police officers, police corruption and serious police misconduct. We do not investigate minor police infractions. Other important sections of the Act, Mr. Chairman, are:

- Section 19, which again, reiterates our independence as a body;
- Section 21 gives us the core functions of what we do as an Authority;
- Section 22 gives us the powers of the Authority
- Section 37 indicates that we cannot enquire into a matter where the subject of the judicial proceedings is the subject of the complaint, we are barred by statute from enquiring into those matters, and
- Section 44 which is the recommendations that we can make if we find it is a criminal offence, we make a recommendation to the Director of Public Prosecutions. If it is an offence of serious misconduct or police corruption, we can make a recommendation to the Commissioner of Police. Or, if it is that a body outside or a person outside of the State, we make the recommendation to

the Attorney General.

Currently, hon. Members, the PCA has a staff of 53 persons of which we have 20 investigators; legal and complaint, we have 10 persons; operations, we have 23 persons; which gives a total number of about 53 persons. Hon. Members, we are now in your hands, and we would like if possible, we could clarify any matters that we have made in the submissions that have been given to you already.

**Mr. Chairman:** Thank you very much, Mr. West. I appreciate your comments. I will just like to make an announcement for purposes of the *Hansard* recorders, that when you are about to speak members, please put on your mikes, and after speaking, take them off in order to enhance the accuracy of the recording of the *Hansard* recorders, thank you.

Members are open to ask questions. I will probably ask the first question, and other members will follow suit, okay? You will remember, you said something in your opening that there is a position of the Deputy Director of the Police Complaints Authority being vacant, is that in fact so?

**Mr. West:** That is quite correct. The Police Complaints Authority or the Authority is comprised of the Director and Deputy Director. Without the Deputy Director and/or Director being installed, well, if I may say so, the Authority is not properly constituted.

**Mr. Al-Rawi:** Mr. Chairman, perhaps I can assist. I am aware that the Prime Minister and the Leader of the Opposition some time ago, both made a joint recommendation to His Excellency The President, for the nomination of a

Deputy Director, and that it is literally in the hands of His Excellency to perfect that exercise. So I am able to just provide that elucidation. Immediately upon the office becoming vacant, the information was communicated and immediate steps were taken by the members who are required to give the recommendations. So it is properly in His Excellency's hands, and I understand that enquiries are being made as to when the finalized instrument will be presented. So, it is up to His Excellency.

**Mr. Chairman:** Thank you very much, Mr. Faris Al-Rawi. Thank you very much.

In your response, Mr. West, you did say due to the absence of statutory power, the coercive power, so to speak, which has adversely affected its ability to fully execute the statutory mandate and functions, the Authority had submitted proposed amendments of the PCA Act, and consequential amendments to the other laws. The amendments were presented to the Minister in the Ministry of the Attorney General and Legal Affairs, who indicated that the amendments would be forwarded to Cabinet for consideration. Could you tell me what is the most recent status update received from the Ministry of the Attorney General and Legal Affairs, concerning the proposed amendments?

**Mr. West:** The most recent update is that the Attorney General has intervened and he has forwarded the amendments to Cabinet, I believe. I think the Attorney General could be best person to tell us exactly where we are, but I know we have made forward movement.

**Mr. Al-Rawi:** Mr. Chairman, perhaps I can assist.

**Mr. Chairman:** Sure, again.

**Mr. Al-Rawi:** This is the unique peculiarity of a small Westminster style Parliament. So I regret that I am intervening here, I am able to say that immediately upon coming into office, the Director of the PCA met with Minister Young and with me. We took a hold of a vast amount of work the PCA had produced, making recommendations for the improvement of the efficiency and meaningfulness of the PCA, and specifically recommendations for legislative proposals. We acted immediately upon that.

The CPC's Department was instructed to prepare positions, the policy paper was instructed to be prepared, and the legislative reform is going to be recommended in very short order. We considered that this was a matter which was languishing for a number of years, and that there had been quite a lot of thought behind it, and it was time to put it into effect. So, I am able to confidently say that that is something which will be approaching the Parliament very shortly.

**Mr. Chairman:** I appreciate that again. Thank you very much. I recognize, Mr. Solomon.

**Mr. Solomon:** First of all, I would like to commend the Director and his team on the fine work that you are doing, and the amount of performance that you have been doing, and we look forward to assisting you in the future with whatever we can, as a Committee, recommend in our report. Particularly I would just like to ask full and frank, I know we have the responses, but if you,

Director West, could just explain in your own words, how we as a Committee could help you? What are the most pressing issues and how could we help you better effect your mandate?

**Mr. West:** Well, I note that the Committee is made up of Government Ministers, Government Senators, Opposition Senators and the Independent Bench, which is very useful because when the amendments come to Parliament, it is not a political game that we are playing with these amendments. These amendments are for the benefit of the citizenry of Trinidad and Tobago. These amendments are necessary because we see all the time that the police do exercise excessive force in certain matters. The police also need training in certain matters.

So we would like it that when the amendments do come to Parliament, that they are given a smooth ride, you know, forget the personalities involved. We want to just focus on the amendments that need to be at hand, okay? The coercive powers, they are not new to a civilian oversight body. In Jamaica, the INDECOM, an independent police complaints—in Jamaica, they have similar powers. The IPCC in the UK, has similar powers. Barbados has similar powers. Even locally, our immigration officers and customs officers have powers of arrest and similar powers. So it is nothing new to give civilian these powers; they will be training. They have already had a course of training, but once we know that the amendments are on the Order Paper, we would bring in experienced persons to train them on how to use these powers. So it would not be, you know, just giving the civilians these coercive powers.



We would like to let the Committee know, that, you know, we have excellent investigation officers, they go beyond the call of duty. I have a great team behind me. Coming into the PCA was refreshing, because the dedication of these officers and these persons in the PCA was fantastic, and not only that, but the independence of the institution that was drilled into me by the former Director and former Deputy Director, was great. So, I came in with a properly functioning Police Complaints Authority, and I am trying to build on that, okay?

There is also, well, the matter—I know of our budget, unfortunately, with these powers, become more responsibility. With more responsibility we will need, for example, to have our own laboratory for testing of firearms, for narcotics, et cetera. We would need a larger budget. I know—and I am not adverse to the comments of the Prime Minister and all over the world—there is a recession or things have slowed down, but whatever increase that we can get from the Committee or from Parliament or Government, we will be happy with because we need the extra money.

We have an office in Tobago also, which for the first time we are not renting we are not expending our own money. The Government has sourced a place for us that they will paying for as they do in the Tower D, Level 24, so that will be a benefit to us also. So, as I say, we would need a greater budget and, of course, where we are right now, it is like it is the same outlay like we are in now. We would need more staff and unfortunately, we would grow out of our accommodation. We would need a fit for purpose, a stand-

alone building, if you will say, where we can independently monitor and have our own laboratory in that building. We can have a proper registry system. We can have investigations.

You know, I wanted to—I am in the process of having hearing rooms under section Part IV of our PCA, and the hearing room is, well, it was a library, but we are trying to turn it into a hearing room. It is adequate, but it is small. I would like a bigger room, so that more members of the public can sit in because the hearings are open to the public.

So, you know, these are the issues that we have. We are still working. We are doing our best, putting our best foot forward, but if we can get these additional allocations and a fit for purpose building, it would make our job much easier, and it would deliver to the public what they demand, which is that complaints are thoroughly investigated in a quick and efficient manner, and that is what we are trying to do.

**Mr. Chairman:** Thank you. Mr. West, let me assure you of the concern you have in terms of members of the Standing Committee as you correctly said, that this is about the public's interest. When we sit here, whatever partisan concerns are left outside the corridors of this Committee. We are all on same agenda, for the same purpose which is common with yours, is that it is put forward in the public's interest, that is the most important thing, that is the sole interest we have here at this point in time. And hopefully what we are doing here is an exercise in bettering whatever service you can provide to the public, and whatever we can do to enhance it and make it productive at the

end of the day.

Following from that, you said that in terms of your budget, I am going to allow, I think member Ramdial wanted to ask you a question, but just engage me here one more time. Are members going to be precepted when you are given these coercive powers, are they already precepted or are they going to be precepted as well?

**Mr. West:** Yes, they have to be precepted.

**Mr. Chairman:** And for the purposes for the listening public, explain what precepted is all about? Probably, Mr. Virgil could, you know—

**Mr. West:** I will let Mr. Virgil answer that question. He is better—

**Mr. Virgil:** Good morning, Mr. Chairman, and good morning to the members of the Committee. Since the PCA anticipating new powers or powers that may be given to the PCA, the PCA would be effectively operating as police officers, so that there would be some protection given to the investigators acting in such capacity. But in addition to that, the investigator must be precepted to the extent that he or she will be able to handle ammunition, firearms and all of that. Well, so akin to the—they would actually be doing work akin to the police service, so that it is nearly about the same level of authority that will be given, the same sense of insulation given to that investigator, we would like to be passed on the PCA investigators.

**Mr. Chairman:** Thank you very much. I recognize Ms. Ramdial.

**Ms. Ramdial:** Good morning, Mr. West. You made mention about your budgetary allocation and needing an increase in funding as such. What is your

current budgetary allocation and your proposal for the increased allocation that you would be seeking from the Government?

**Mr. West:** Hon. Member, can Ms. Best our Finance—answer that question? That is her profession.

**Ms. Ramdial:** Sure.

**Ms. Best:** Hon. Member, we receive the total approved allocation of \$18.4 million for this financial year, which is 65 per cent of the amount we requested, and \$2 million less than the amount approved—than the amount expended for the last financial year. We have a team comprising the Director, former Deputy Director, the HR Coordinator, myself. We have reviewed our expenditure, our planned activities, our services provided for this financial year, with a view to reducing our expenditure. As soon as we have determined the additional funding required, we would make a request through the Ministry of the Attorney General for approval.

**Ms. Ramdial:** Thank you.

**Mr. Chairman:** Ms. Ramdial has another question for you.

**Ms. Ramdial:** Mr. West, again, I know you made mention earlier about coming into the Police Complaints Authority and having their operations running well, and you are just, of course, trying to improve on that. Now, I remember and also as a Member of Parliament, there was an outreach programme to different areas throughout Trinidad and Tobago that was undertaken by your predecessor, and it was very well received across the country. Are there any plans to continue such an outreach programme,

because education and awareness is very important to our citizens?

**Mr. West:** Yes, thank you very much for that question. Yes, we have plans to continue our outreach programme. When I came in, in November 2014, we went to Tobago and different areas in Tobago. We also went to St. Ann's, Santa Cruz and Chaguanas areas.

**Ms. Ramdial:** Couva also.

**Mr. West:** Couva also, yes, and what happened was unfortunately or fortunately, general election was called—because of our budget all the schools and all the centres that we did not have to pay, were taken up by other political meetings. We were also fighting against the politician for people to come out and learn and listen, so we decided to suspend that. We have not started back since the election, but we do have plans to continue. We have plans to continue in the south region and the east region.

I think our annual report when it comes out, will show you that we were able to identify where most of the complaints took place, and it was the Port of Spain area, central and north-eastern divisions. The north-eastern division is particularly—I would not say worrying, but north-eastern division needs some assistance. So we intend—the Sangre Grande area needs attending to. So once we have organized and have our plans set out, we will continue our outreach programme.

I must also let you know too that what we also did, we met with the police officers who had not passed out yet, and we went, and we had outreach programmes with them on two occasions, and it was very well received. The

questions that they were asking, you know, were very intelligent questions and it made me realize that this is where we really have to focus on, because we wanted to show we are not the enemy. The PCA is not the enemy, okay? We do not want to prosecute you for any infraction. What we have tried to do was let them know what we do, and that if you do it properly, then you will be okay.

What we do is, we investigate impartially and fairly, and let the chips fall where they may, okay? So we do not have any preconceived or prejudice against anybody. A lot of complainants come in and exaggerate, that happens, because they want something done. Police officers then, if they are interviewed, give their side of the story, but the recruits, the questions they were asking, were very good questions. I think at the end of the day, they realized that the PCA is not the enemy, and they themselves—under the Act, a police officer can make a complaint to the Police Complaints Authority, okay? And they have been making complaints, and also too for the benefit of the Committee and the public, there are no police officers working in the PCA. It is totally a civilian oversight body.

**Mr. Chairman:** You mean no current police officers, there are former police officers?

**Mr. West:** Former, but they are not police officers anymore.

**Mr. Chairman:** Is it that you are saying that you are seeking, in some of the amendments, is it to have prosecutorial type of powers as well?

**Mr. West:** This is a recommendation that has come through me as the current

Director. It was not in the other amendments before, because what I have noticed, and what I think, is that for us to really, truly deliver to the public, a complainant, is that we must take the complaint, we must investigate it, and we must be able to prosecute. It must be like a cradle to the grave kind of situation. In Jamaica, they prosecute matters. Now, I am not usurping the functions of the DPP.

**Mr. Chairman:** This is what I was about to ask you. How is—

**Mr. West:** I am not. The DPP under section 90 of the Constitution can still intervene in any matter. He can take over prosecution. He can stop a prosecution, okay? Also too, the police officer, if he feels aggrieved by my decision or the decision of the Authority, he can file for judicial review of the decision taken, and then that could be done, to be enquired into. But in terms of efficiency and—I just want to be careful here—that we have sent matters to the DPP for recommendations and he has replied to some, but he had not replied to some others. We believe that if we had that under our control and we believe that an offence has taken place, we should be able to prosecute the matter, okay?

**Mr. Al-Rawi:** Mr. Chairman, I am very cautious about Ministers with responsibility, even though this is an autonomous entity and there is no line Minister per se, other than by way of administrative assistance, I still am guided by the Westminster caution that Ministers ought to be cautious about interventions, but permit me please to elucidate for the benefit of the public, adding on to what Director West has put forward.

The coercive powers that have been recommended by the PCA, meet with the recommendations of the report coming out of the last Parliament. The coercive powers specifically are: stop and search; seize articles; remove articles from premises; arrest without warrant any person where there is a reasonable cause or suspicion. The coercive powers have been an issue which is centre stage as to efficiency.

The special majority that will be required to deliver that kind of power, is going to be a very important issue for a unanimity of mind. We have already stated that the Attorney General's office is pushing the amendments, but the national conversation is going to meet around agreement in the Parliament, because there is no special majority in the House of Representatives.

Apart from that, the supplementation of the prosecutorial remit for the PCA itself is not something which is unusual. The Land Settlement Agency, for instance, has had the benefit of having its own officers prosecute by way of training and coordination with the DPP. So the fiat of the DPP is something that can be given, and the intervention power of the DPP is preserved under the Constitution in any event. So, there is safety on that ground. So this is something which is a very important issue, and around which there needs to be ventilation and an agreement of minds. Again, the call is that this thing is something that should withstand any partisan position, and that the best interest of the nation needs to be put forward. So I just wanted to clarify for that point.

Would you permit me the question which I wish to address?



**Mr. Chairman:** Sure.

**Mr. Al-Rawi:** Thank you, Sir. Director West, the last report which was laid in the Parliament, the recommendations of the Committee, included some submissions that there be a better working relationship around certain issues with the Commissioner of Police, and also the Police Service Commission. I was wondering if you could tell us a little bit about the functionality. For instance, the report recommended that a database of photographs and other information in relation to police officers be constructed; that the Commissioner of Police allow for better access to information requested by the PCA, which seem to have not been functioning as smoothly as it ought to; and that the Police Service Commission, the PSC, another statutory body, constitutionally constructed under section 122 of the Constitution, that it also get into the picture with some coordination. Could you give us a little flavour as to what progress has been made in terms of the PCA's better functioning with the PSC and the Commissioner of Police specifically?

**Mr. West:** Yes. Thank you very much for that question, hon. Attorney General. The short answer is we have not had the photographs of all police officers that we had asked for by the acting Commissioner of Police. And there are other several recommendations that we have asked for, that we have not had a response to.

Coming out of that, what I have done is, I have developed a relationship with one of his deputy directors, in terms of getting information. So, I write to him and he responds in a timely fashion; within two or three days. Well, I

have the ability to call on one of the Deputy Commissioners of Police to get the information that I need, alright? I understand the Commissioner may be busy and may have other things, and may have delegated that function to the Deputy Commissioner, but I do get matters back in writing concerning matters—complaints before me which is a very good forward step. I must say from that point of view, the relationship has developed and has grown. I am happy with how things stand.

With regard to Public Service Commission, we met with Dr. Gomes, I think early this year, and we strategized some matters, and we went through matters, and we have a working relationship. In fact, in our upcoming conference in March, 16<sup>th</sup> to 17<sup>th</sup>, Dr. Gomes is assisting us in our conference. So, we have a very good working relationship with Dr. Gomes and the Public Service Commission.

**Mr. Chairman:** The Police Service Commission.

**Mr. West:** The Police Service Commission, yes.

**Mr. Chairman:** Just following through from what Mr. Al-Rawi had asked, in terms of the general relationship between the police administration and yourself, you are saying there is some improvement. But in your report there were concerns about where investigations are being conducted, with police not cooperating, in terms of refusing to give information as is necessary. Since this report has been compiled and submitted, has there been any instances again, where police have refused to cooperate as such or that has changed?

**Mr. West:** Well, just to make a distinction between a police officer who is a witness, and a police officer who is under investigation and suspected of a criminal offense. Of course, a police officer suspected of a criminal offense will be told—what we do is, we do a letter and we indicate as such, and we give him the opportunity to consult with an attorney, and whether or not he wants to be interviewed. If he says no, we have to respect that.

With regard to officers who are just witnesses, we have not had any—generally they come in and they give a statement to us and they generally comply with our request. There has been no flagrant disregard of our request, there is delay. I must admit there is delay in officers responding to us, which is a cause of concern.

We have not yet had any reason to invoke the powers that we have under section 22, which is the power to summon a person before us, and if not, there is penalty. We have not had reason to do that as yet, but that does not mean that in the future I would be hesitant to use that power, because I will; if it is that it needs to be done, it will be done in order to secure a fair and a proper understanding of the matter, and have justice for the member or the complainant in the matter.

**Mr. Chairman:** Thank you. Mrs. Primus.

**Mrs. Baptiste-Primus:** Thank you, Mr. Chairman. Good morning officers of the PCA. Director West, in the report of the PCA there are various concerns reflected regarding the duplication that exist within the police service and that of the PCA. I speak in particular of the Police Complaints Division. I have

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noted in the report that certain undertakings were given for the phasing out of this department which really replicates the work of the PCA. What is the present position regarding that specific issue, and if it has not been resolved, how is that situation impacting on the work of the PCA?

**Mr. West:** Well, under the old 1993 Act, there was a Police Complaints Division, by the repeal of that Act and a new PCA Act 2006 coming into force, that PCD should have been abandoned. That should no longer be part of the police service, because there is no statutory authority for that organization or that department to be functioning. The PCD, the Police Complaints Division, as you would notice, and the PCA, sounds very familiar, and it does confuse the public.

Many times members of the public come in and say: “We made a report to you two years ago, and nothing was done”. When we check, the report was made to the PCD and not PCA, because police officers themselves get confused because, of course, as Ms. Ramdial was saying that the outreach and education of the public is very important for them to understand that the PCA, under section 48 is the sole investigatory body for police matters. That is important and I want members to understand that, and, I will just quickly read that section because it shows you how important the PCA is. Section 48 says:

“Where the Commission”—that is the Police Service Commission “or the Commissioner”—Police Commissioner—“receives information or a complaint in relation to any of the matters mentioned in section 21(1)(a)”—that is our core functions—“the Commission or the

Commissioner shall immediately inform the Authority of the investigation in writing and the Authority shall have the sole responsibility for dealing with those matters.”

**10.40 a.m.**

So you understand that the Parliament in its wisdom when the Act was passed in 2007 made for the PCA to have the sole responsibility for dealing with police matters. So, therefore, we should be clothed with all the coercive powers that we need to be with, and also there is the Professional Standards Bureau of the Police Service. That, again, is causing confusion within the public’s mind and it also causes us to run parallel investigations, and sometimes when we want a witness for a matter, the Professional Standards bureau also wants a witness for that matter. Okay? And the witness says, “Well, I am giving two statements to two different bodies. I do not understand.”

So that body, unfortunately, the Professional Standards Bureau, because we do not have the coercive powers has to investigate matters, because we cannot go on a crime scene and collect a firearm, the police can, but we cannot. But then, again, the problem is when the police collect the firearm, what do they do with the firearm, the integrity of the firearm? When they get the final narcotic, the integrity of the narcotic. When they protect the crime scene, what about the integrity of the crime scene? Are other police going to do things that make it more favourable whilst the investigation starts?

So you see the issues we have. We have issues and that is why we need

our powers ASAP, because we are running not only against an officer, we are also fighting against the PCD and the Professional Standards Bureau.

**Mrs. Baptiste-Primus:** Mr. Chairman, permit me a follow up. I want to thank the Director for his very frank response, because it is an uphill task really with now rails to hold on to actually. Yet, in spite of the challenges that you all have faced, I have observed that over the period October 01, 2014 to September 30, 2015, there has been a marked increase in the number of completed investigations. I just wanted to ask from your perspective, what were the main factors which contributed to the increase in the number of investigations completed as compared to the previous years? How many investigators are employed with the PCA and whether or not there is need for an increase in the investigators? And finally, most importantly, are there any mechanisms in place for the protection of these investigators who at certain points in time may be investigating certain high-risk cases?

**Mr. Al-Rawi:** Mr. Chairman, just before the answer is given, because I have a directly related matter to the very substance point, if you will permit me so that Director West can answer them all sequentially.

**Mr. Chairman:** Let us hope Mr. West has taken a note of it.

**Mr. Al-Rawi:** I see him taking a few notes there.

**Mr. Chairman:** He will feel barraged

**Mr. Al-Rawi:** Because he can easily dovetail the answer into this. So Sen. Baptiste-Primus' position was piggybacked upon page 9 of the report, which showed a material optic in the number of investigations. We moved from 45

investigations in the period October 2013 to September 2014 to 231. Director West, the square question arising out of that: of the 231 completed investigations which would have been passed over back to the police to investigate the tail end of it—because in certain circumstances they would come in to preserve evidence to do certain things to exercise the coercive powers—of the 231 investigations, the final question is: could you tell us what has happened to them? In other words then, has there been any prosecutions or convictions or court matters which have ended favourable or unfavourable out of those 231 or even the 45 in the year prior?

**Mr. West:** I would take your question, if you do not mind, hon. Member, Mrs. Baptiste-Primus after. Hon. Attorney General, once we investigate a matter the police they do not touch our matters. The police have no locus in any of our investigations. So, therefore, we do not use any coercive powers in doing these investigations.

**Mr. Al-Rawi:** Director, I did not mean that you do, but insofar as evidence may need to be collected and certain activities have to be perform by the police, of course, with the directions of those that send the directions to them, because there is a confluence and a sort of a contamination with the continued involvement of the police, hence the reason for the Act saying the PCA has the sole authority. So, the question really is: of the 231 or of the 45, the year prior, what has the public got out of the benefit of all of that hard work from the PCA? What the detection and conviction rate look like coming out of that?

**Mr. West:** Okay. We have submitted 10 reports to the Director of Public Prosecutions. There were two matters I could think off that were run parallel—the Professional Standards Bureau, I believe were running other investigations on the same matter, and those matters were sent to court. What the Director of Public Prosecutions does is he uses our file, our statements, to supplement the police file and come to a decision on occasions that we investigate.

Forty-nine matters were sent to the Commission of Police where we found serious police—42 matters sorry, where we found serious police misconduct and 179 matters were closed, because we found no further action could be taken.

**Mr. Al-Rawi:** So, would we need to ask the Commissioner of Police for the balance of the or rather the status of the 42?

**Mr. West:** Well, the thing is our powers stop at making the recommendations under section 44. There is no power to ask the Commissioner of Police, or there is no obligation on him to say, “Well, out of the matters done, yes we have found 14 not guilty, 20 guilty.” There is no obligation on him. Our powers stop at making the recommendation.

**Mr. Al-Rawi:** Sorry. Mr. Chairman, the last one, just coming directly out of that. Director West, therefore, since the existence 2006 come to date of the PCA, is anybody tracking or can speak to statistical information as to the status of the number of recommendations over time that would have been given to the DPP or the Commissioner of Police and what the outcome of



those are?

**Mr. West:** Yes, I think we have that. Sorry, hon. Attorney General, do you mean the recommendations that we have made or statistics?

**Mr. Al-Rawi:** So the position would be to carry the point forward for the public's benefit, the PCA from 2006 to date would have made a number of recommendations either to the DPP or the Commissioner of Police. Of those recommendations the status of what has happened, how many closed; how many prosecuted, how many convicted, how many found nothing to answer.

**Mr. West:** Hon. Attorney General, I do not think we have it now, but we can forward that information to the Committee.

**Mr. Al-Rawi:** Thank you, sir.

**Mr. West:** Coming back to hon. Member, Mrs. Baptiste-Primus question, what we have done is we have reengineered the work of the legal unit. We have impose more stringent timelines for file assessments. We have assigned one legal counsel to each investigative team and we configured the portfolio of each legal counsel, and we have also trained investigators. In our new report 2014/2015 that would be laid before Parliament soon, you would see that I have introduced a fifth investigative team just dealing with 2015 matters, new matters. So we have the teams dealing with 2010 matters, 2011 matters, 2012 matters, 2013 matters and, of course, Tobago matters. So we have divided up the work so the investigators are more sensitized to what they have to do.

**Mrs. Baptiste-Primus:** Just permit me. Are you saying that there is presently

a backlog of work existing at the PCA and officers are assigned to attempt to clear up the backlog?

**Mr. West:** That is correct. There is a very large backlog of matters at the PCA. We have 20 investigators. We have, if I could just say, ongoing investigations received from 2010 to September 2015, we have 1,279 investigations ongoing, and those files are divided between five teams of approximately four to five investigators per team. Our full complement should be about 26 investigators.

As you were saying, protection for our civilian investigators, this has been raised several times by them, because many times they go to areas, hot spots, if you want to say, where they have no protection. We cannot go with police convoy, because of course we are investigation the police and they would say, "How come you are bringing a police officer to investigate." So, we cannot use the police and many times what has to happen is we go with a driver and two offices so we take up time investigating one complaint because we need the protection. We protect our own. So to answer your question is that no, there are no means of protection for these individuals.

**Mr. Chairman:** Mr. West, coming from what you have just explained there, in terms of when you are making recommendations, say either the DPP or the Commissioner of Police: is there a distinction between prosecutorial actions to be taken as opposed to discipline? Do you all recommend whether discipline or prosecution is supposed to follow?

**Mr. West:** Yes, Mr. Chairman. Mr. Chairman, when we make a

recommendation to the DPP is for a criminal offence we have found. When we make a recommendation to the Acting Commissioner of Police is because they run afoul of the Police Service Regulations, and we identify what regulation they have breached and we give the evidence of why we think so.

**Mr. Chairman:** It will ensue from the Act.

**Mr. West:** We make a recommendation that disciplinary proceedings should be ensued, whether or not he carries it out is for him, but we could only make that recommendation.

**Mr. Chairman:** Faris Al-Rawi had asked earlier, the fusion of what transpired after you make a submission to the DPP or the Police Commissioner as such. Is there any mechanism to track these things, you know, like a follow through in terms of a database or just as you have identified persons dealing with matters in 2011, 2012 or 2013? Is there a tracking base to know exactly at any short notice, well look this is what is pending, this is not to be?

**Mr. West:** Well, I know that what I have done with the DPP is once we give a file over, we send the file across and within about a week or two weeks I go over and discuss the matter with the DPP and get his initial views on the file, whether or not he wants other information or not, but that is what I do. With the Commissioner of Police, we just send the file across to the Commissioner of Police. But many times, and I believe the Commissioner of Police sends it on to either the PCD or the Professional Standards Bureau to do the further investigation of the matter.

**Mr. Al-Rawi:** Mr. Chairman, I do believe that Director West has indicated that they would provide the information of the statistics for the period 2006 coming to date, and I wish to thank him for that undertaking. I think that that would underscore the very basis of why it is we should, as a unit, be considering the amendments with urgency.

**Mr. Chairman:** Sure. I would like to ask you, following through, what was the role of the PCA in last year's unfortunate incident with the day of total policing? Did you all investigate that?

**Mr. West:** Hon. Chairman, we are investigating the matter and the matter is ongoing in our investigation department.

**Mr. Chairman:** Are you all getting cooperation from the police officers as such or is there any difficulty?

**Mr. West:** We have in the main been getting cooperation from the police officers, but what has caused the delay is that, of course, the officers once we make an appointment many times they get called out and they have to go out and they have court matters to attend to. So to get it all sink in in one, it is difficult sometimes, but we are making progress and we are investigating and the report is being completed.

**Mr. Chairman:** Thank you very much.

**Mrs. Baptiste-Primus:** Thank you, Mr. Chairman. Director West, given the fact that the PCA is really hampered in carrying out effectively its main functions, particularly into police killings: how does the Authority compared to other bodies globally in terms of carrying out its works and not having the

kind of powers that the PCA should have and whether or not the PCA holds the view that should those powers be accorded to it, whether or not the authority would become a more meaningful check and balance regarding the potential conduct of police officers?

**Mr. West:** We unfortunately are not as efficient as the other authorities that have those coercive powers. When I visited Jamaica, we saw the movement of what could happen when you have the coercive powers, and we also saw the respect given to the civilian outside body when they went on a crime scene and when they did investigations. I am sure that once we get these coercive powers and the other amendments to the Act that we have asked for, the PCA would be one of the shining lights in the Caribbean, because we have the investigative tools and we would get the manpower and the dedication of the staff of the PCA. So we do need the powers and, yes, we would be a more efficient body to protect the public against police abuse.

**Mrs. Baptiste-Primus:** Thank you.

**Miss Ramdial:** Mr. West, coming out of the report there was a recommendation with respect to creating a database comprising photos of all police officers in compliance with the Act. How is that coming along with respect to that creation of a database?

**Mr. West:** That was one of the letters I wrote in September 2015 to the Commissioner of Police asking for that and we have not had that since.

**Miss Ramdial:** I understand also that, of course, that needs to go through the Commissioner of Police. Is it that there is no sort of alliance or collaboration

coming forth from the Commissioner of Police Office to make this happen in a timely manner?

**Mr. West:** There have been definite silence. There has been nothing on the matter.

**Miss Ramdial:** Thank you.

**Mr. Solomon:** Through you Chair, Director West, I think for the benefit of the listening public, I think that a lot of the public may be fearful, intimidated to give evidence, or to talk to your investigators in matters related to the police for obvious reasons. I see you mention witness protection, could you talk to us a little bit about that?

**Mr. West:** Thank you for the question hon. Member. Many times complainants come in to report a matter against a police officer, and they are fearful because the officer knows people in the area and they can do them harm. They have been threatened by the police officer. What we have for us and I think the public has to kept faith in it is the confidence we have reposed in the public and that there have never been a breach of any matter outside of the PCA that has come to the PCA, but we need more.

We need statutory intervention in terms of the amendment to the Witness Protection Act where we can be a body that can apply for protection for a complainant once we give, of course, proper reasons, and with that amendment we will be better able to serve the public and any complainant who feels intimidated by a police officer. Also too, with the inception of the Communications Act, many times officers phone complainants and harass

them, threaten them on the phone and, again, we cannot ask for the service provider for information, because they would not give it to us. The complainants themselves have to go and ask for the information, the recording of the phone numbers, and that takes a long time. We need these things at our fingertips if we are really to provide an independent, swift, efficient system for the complainants we need these amendments to the legislation.

**Mr. De Freitas:** Good morning members of the PCA and Director West. Just in relation to Mr. Solomon's question, dealing more specifically coming out of the report where a compliment was given to the PCA on the practice of tracking incidents in events with police officers via the media as it demonstrated proactivity and it allowed the authority to monitor the status of ongoing cases and potential issues. The question I really want to ask is during the period 2014 to 2015, how many cases and complaints that the PCA investigate based on media reports? And, secondly, are Internet and social media platform such as Facebook also surveyed in this regard? This is important because that provides an avenue for complainants to basically, you know, get a response from the PCA. And, more importantly, for the listening public, if something were to come up on Facebook in regards to a particular incident involving a police officer: how does that affect the investigation by the PCA? Is it useable at all or is it that you cannot use videos from Facebook or any other media?

**Mr. West:** Yes, thank you very much for the question. You remember some time ago, I think it was last year that a disabled person was treated badly by

police officers, well that was posted on Facebook within about five or 10 minutes and we got it on our website within 15 to 20 minutes, and we were able to initiate a complaint investigation based on that. So we take all media reports.

What I do when I get to the office in the morning is I go through the newspaper to see if there has been any matters of police abuse. We also have a legal department that also scans the newspaper to determine whether or not there has been any abuse, and then they write to me a note and I determine whether or not it should be initiated or not. That includes all the print media, electronic media, facebook, twitter, whatsapp. Whatever it is, we have a website and we cover that.

To answer your questions in October 01, 2014 to September 30, 2015, we initiated 58 matters; 2013/2014, we initiated 73 matters; 2012/2013, we initiated 43 matters; 2011 to 2012, 38 matters and, of course, 2010 to 2011—December 2010 to September 30, 2011, we initiated three matters. So you can see we do initiate matters.

I must thank the media for bringing to my attention and for bringing to the attention of the PCA infractions. Many of the times I get calls from the media and they say, "Well, have you investigated X, Y, or Z or do you know about X, Y and Z", and I say no and sometimes we tell them get in contact with the complainant and they would come in and give the information. So it is a holistic, it is an all-round approach and it is working very well.

**Mr. Smith:** Thank you, Mr. Chairman. Good mooring everyone. As you



know, we are pushing forward and look at data and data collection and analysing, what are the main aspects of that is benchmarking. Globally, of course, you have different organizations similar to yours across the globe. Who right now is considered the flagship body such as this and how do we measure up with regards to our results with regards to that in terms of measuring up to what you consider to be the flagship in this?

**Mr. West:** I would say definitely without a doubt, Jamaica in the Caribbean region is the flagship. Of course, they have the coercive powers and we do not. To measure up, well we do not. I would give us a C grade because they have the coercive powers. They have their own laboratory. They have a forensic analysis person who comes down from Miami every two weeks to analyze bullets and narcotics and they are very advanced. They have a fleet of vehicles. They have their own fit-for-purpose building. They have police, well not police, but when they go to crime scenes they have their vest on. They have the whole works to be a proper functioning what the PCA should be.

Internationally Hong Kong is the benchmark, I would say. And, again, our conference next month, two persons from Hong Kong are coming down which would be excellent for us to talk with them and see what they are doing, and the conference is very important because that is where we will meet other persons from all over the world dealing with civilian oversight matters.

**Mr. Chairman:** Mr. West, in terms of the ongoing training of your officers, are you satisfied that the quality of the training is adequate or is there more

could be done? And, secondly, in terms of the investment being made in the officers in order to retain them, I see you had a challenge in keeping quality and good officers at the legal level as well as the investigating level. Is that being addressed or is that still a challenge?

**Mr. West:** We recently lost one of our investigators, a senior investigator to another body because of money. Like all public bodies, the terms of the Deputy Director and Director are fixed by the President. Our salaries are X amount, which is minimal, and other persons from the areas, for example, we wanted to get a head of investigations and the salary he was asking for was way above our salary, so we could not employ him and the person was a very good person and is what we. So we are hamstrung by salary caps of the Director and Deputy Director, and that is why people tend to leave. And to get good persons in the PCA is difficult because they would be demanding higher salaries than the Director and Deputy Director.

In terms of training, again, Jamaica, when I was in Jamaica, the University of Portsmouth has a very good investigative programme. I think they are funded by the EU where lecturers go over from England to Jamaica and spend about a month training their investigators in Jamaica. So, one of the matters I want to bring up with the Director of Indicium is that whether or not we could send some of our investigators across there.

I have also tried to speak—there is a person by the name of David Robinson who is the criminal justice advisor and he has a programme where sometimes he can get persons to come across to Trinidad and do that same

activity, and I have been in touch with him to try and get that done also. So there are different bodies I am trying to attach and get to assist us in proper training. Of course, our money comes from Parliament and, therefore, we cannot get money from outside because that would be a breach. So, therefore, I am constrained and I have to go to other foreign agencies to ask if they can donate or if they can help us out in the matters of training.

**Mrs. Baptiste-Primus:** Thank you, Mr. Chairman. Just to piggyback off a question you asked earlier, in light of the fact that you have just informed us that the PCA is hamstrung by salary caps, as a consequence of that what is the rate of turnover of your professional staff or is it that loyalty keeps your staff with you?

**Mr. West:** Well, our staff is very loyal and dedicated, but since we appeared before the Joint Select Committee, seven persons have left the Authority, and the seven would be senior persons: the head of operations and some investigators, legal. So senior persons have left.

**Mrs. Baptiste-Primus:** Mr. Chairman, just permit me to continue the conversation. What impact therefore the demitting of office of those seven persons have had—the departure of those persons have had on the work of the PCA?

**Mr. West:** Well, other persons have had to step up to the plate and fill those shoes. It has taken some time to adjust, but we have coped and when you see the report for next year, for 2014/2015, we have had an increase in cases being investigated and finalized or closed. So, we have been working and we have

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been doing a good job, I must say, in my point of view, despite persons leaving.

**Mrs. Baptiste-Primus:** Final question on this issue, Mr. Chairman. Thank you for facilitating me. Mr. West, I get the sense that people are doubling up and tripling up in the organization and is because of the situation being what it is. The PCA, may I point out, to my perspective is doing a phenomenal job under trying and challenging circumstances, which we must address if it is that people are to get justice and fair play in Trinidad and Tobago. But given the fact that your staff appears to be hardworking, loyal and prepared to go more than the extra mile, do you have a reward mechanism in place at the Authority? I know, there has been discussion on the performance appraisal system, but I am speaking to another system or a system that can be appended to it where the loyalty of staff can be properly recognized.

**Mr. West:** What we have hon. Member is staff appraisals once yearly and based on those appraisals staff can be promoted. I know you are asking about whether or not there are incentives and the answer is no, our budgetary constraints. We have X amount of dollars to work with and we have to keep within that budget.

**Mr. Chairman:** Perhaps, Mr. West and Mrs. Baptiste-Primus is something that we as a Committee would probably have to look into and make some recommendations because it is a recognized concern in many other areas of the public service where to attract good talent and keep good talent is always a difficulty based on remuneration compared to what is available elsewhere

either locally or internationally. It is one that needs to be addressed really rationally and I think the public ought to be made more aware and sensitized to it in order to accept that fact, because what would happen is that you would invest into public officers going abroad and receiving sophisticated and high-quality training at a significant cost and then within two years or a couple months they are gone. I mean that is like spinning top in mud. I mean, it is something that we really have to address as a people. It is something that is long overdue to be addressed. So, I hear you and certainly I know we are going to take this on board in our recommendations moving forward. Mr. Al-Rawi, I think you wanted to ask a question.

**Mr. Al-Rawi:** Just to alert that one of the proposed amendments to the PCA legislation would include as other bodies do have, the ability to receive moneys other than parliamentary allocations and that is gifts or donations from certain other external entities, of course, within rules of propriety can be received. I just wanted to flag that that is something that is being considered as a matter of immediacy.

**Mr. Chairman:** Well, that should be some good news. Any other questions coming from Members? Well, Mr. West, I think you and your complement of supporting staff, members of the PCA, we appreciate your candid discourse with us this morning. I am sure the public is much more aware and appreciative of the role that you have played under trying circumstances which is quite clear to us and to all who have been listening. We will hope that at the end of this, just like on the last occasion when you met before Group

1, recommendations were made and they were taken forward, we are hoping that similar can happen after this discourse as well, but before we close, I would invite you to make your closing comments to us.

**Mr. West:** Well, I would like to thank the Committee for having us before it and asking us questions. I could tell from the questions that the Committee understands the work of the PCA and the Committee understands what the PCA needs. We are a body that wants to work for the public and the public deserves the best when it comes to the PCA. I just want to just quickly share with the Committee that would drive home the importance of having a truly independent body.

There is the case of *Ramesai vs the Netherlands* in 2005 where there was a police killing and it was investigated by the police and the European Court of Human Rights stated and I quote:

For an investigation into alleged unlawful killing by state agents to be effective, the persons responsible for and carrying out the investigation must be independent and impartial in law and in practise. The investigation must also be effective in the sense that it is capable of leading to a determination of whether the force used was or was not justified in the circumstances and to the identification and punishment of those responsible.

The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident including *inter alia* eyewitness testimony and forensic evidence.

The investigation conclusions must be based on thorough, objective and impartial analysis of all relevant elements and must apply a standard comparable to the no more than absolute necessary standards required by Article 2 of the Convention.

And it goes on:

The court would observe at this point that the obligation to carry out a prompt and effective investigation when individuals have been killed as a result of the use of force, and to bring on and able such proceedings as may be appropriate to the case is not dependent on whether the said use of force is ultimately found to constitute a violation of Article 2.

In order to be effective as the expression is to be understood in the context of Article 2 of the Convention, an investigation into a death that engages the responsibility of a contracting party under that article must firstly be adequate.

Secondly, for the investigation to be effective in this sense, it may be genuinely be regarded as necessary for the persons responsible for it and carrying it out to be independent from those implicated in the events.

So, what I am saying here is when you have the Professional Standards Bureau investigating police shootings of police officers is not independent, is not impartial, and the court has ruled that that cannot happen.

So this means not only a lack of hierarchical or institutional connection, but also a practical independence. What is at stake here is nothing less

than public confidence in the State's monopoly on the use of force.

So, with that, I ask that when the amendments do come to Parliament that Parliament seriously considers it and takes the amendments on board and to have in mind that at the end of the day, it is the public that we are all serving. Thank you very much.

**Mr. Chairman:** Thank you, Mr. West. On behalf of the other Members of the Committee, we would like to thank you and the other members from attending and making the contributions. I am sure that the public of Trinidad and Tobago is better off for this exchange and this viewing. The fact that that you were No. 1 on our agenda, it shows the importance that the Parliament has placed on your functions. The critical role, we know is very contemporaneous what is going on in terms of the level of violence and so going on in the country. It is also a very difficult situation in balancing police efficacy with the type of force and the confidence of the public in the police service who is there to serve them.

So we thank you very much and we would certainly put our best effort and collective wisdom when we are adjudicating and discussing the amendments that I believe, according to Member Faris Al-Rawi, should be soon before us in the Legislature. With that, thank you very much.

I would also like to thank the media for their presence, the viewing public for viewing this even though it is not being telecast live, it would be shown subsequently on the Parliament Channel.

Let me just take this opportunity also to alert the members of the public



that the next public hearing of this Committee will be on Wednesday, March 23, and for interest the Land Settlement Agency would be the next agency that will be appearing before us.

**Mr. West:** Mr. Chairman, thank you very much. It would be remiss of me if I do not thank my members here who have accompanied me, the hard work they have put in preparing for this joint select committee and also the members of staff at the PCA, I want to publicly thank them for doing a fantastic job and for continuing to do a fantastic job. Thank you very much.

**Mr. Chairman:** Thank you. I would now like to declare this meeting adjourned. Thank you very much.

**11.20 a.m.:** *Meeting adjourned.*