

**VERBATIM NOTES OF THE 25<sup>TH</sup> MEETING OF THE JOINT SELECT COMMITTEE APPOINTED TO ENQUIRE INTO AND REPORT ON LOCAL AUTHORITIES, SERVICE COMMISSIONS AND STATUTORY AUTHORITIES (INCLUDING THE THA), HELD IN THE J. HAMILTON MAURICE MEETING ROOM, MEZZANINE FLOOR, TOWER D, INTERNATIONAL WATERFRONT CENTRE, #1A WRIGHTSON ROAD, PORT OF SPAIN, ON MONDAY, JUNE 11, 2018 AT 10.18 A.M.**

**PRESENT**

|                      |                             |
|----------------------|-----------------------------|
| Mr. H. R. Ian Roach  | Chairman                    |
| Mr. Nigel De Freitas | Member                      |
| Mr. Darryl Smith     | Member                      |
| Ms. Khadijah Ameen   | Member                      |
| Mr. Julien Ogilvie   | Secretary                   |
| Ms. Khisha Peterkin  | Assistant Secretary         |
| Ms. Simone Yallery   | Legal Officer               |
| Ms. Terri Ann Baker  | Graduate Research Assistant |

**ABSENT**

|                               |                                  |
|-------------------------------|----------------------------------|
| Ms. Ramona Ramdial            | Vice-Chairman [ <i>Excused</i> ] |
| Mrs. Jennifer Baptiste-Primus | Member [ <i>Excused</i> ]        |
| Mr. Esmond Forde              | Member                           |
| Dr. Lovell Francis            | Member                           |

**OFFICIALS OF THE MINISTRY OF LABOUR  
AND SMALL ENTERPRISE DEVELOPMENT**

|                    |                                  |
|--------------------|----------------------------------|
| Ms. Natalie Willis | Permanent Secretary (Ag.)        |
| Mr. Andre Laveau   | Deputy Permanent Secretary (Ag.) |

**UNREVISED**

Ms. Sangeeta Boondoo

Senior Legal Officer

Ms. Shanmattee Singh Ng Sang

Director, Research &amp; Planning

**Ms. Willis:** Good morning, Chair and members. Thank you for the opportunity to meet with this Committee on the enquiry into OSH compliance in the public service. The Ministry of Labour and Small Enterprise Development plays a strategic role in creating growth, promoting diversity and restoring confidence through its critical work in fulfilling Government's labour, employment and entrepreneurship commitments, which impact all sectors of the economy and all Ministries and agencies.

The work of the Ministry has been given greater prominence in national development, especially with the adoption of the Sustainable Development Goals in 2015, specifically goal eight, which speaks to promoting inclusive and sustainable economic growth, employment and decent work for all.

Decent work refers to work that is safe, productive, delivers a fair income and upholds the rights of workers. One of the targets in the achievement of goal eight is the protection of labour rights and the promotion of safe and secure working environments for all workers.

The health and safety of workers is of high priority to the Government, which has been articulated in the Government's official policy framework and the National Development Strategy, Vision 2030.

To fulfil these mandates, one of the objectives of the Ministry's new strategic plan 2017 to 2020 relates to the creation of a safe, healthy and congenial atmosphere to facilitate improved overall work conditions and enhanced productivity. The Ministry's strategic plan 2017 to 2020, as approved by Cabinet is centred on a vision of decent work, industrial peace and opportunity for all.

In realizing its vision, the Ministry has identified one of its core functions as

the improvement of the quality of life through the promotion of occupational safety and health awareness in the workplace and enforcement of OSH standards.

The Ministry recognizes that although we have made great strides in improving the framework for the management of safety and health in the workplace and the enactment of the Occupational Safety and Health Act, there is much more to do.

The time has come for us to review the OSH Act to address its deficiencies as we have heard from stakeholders that this Joint Select Committee, as well as from our consultative process, which we would have engaged in, in Trinidad in March 2017, and in Tobago in July 2017.

Further, in an effort to obtain feedback from specific stakeholders, sectoral consultations were also held in July 2017, and a draft interim report and a policy position paper were developed coming out of these consultations, which is currently being reviewed at the Ministry

The amendment of the OSH Act, together with addressing some of the challenges facing the OSH Agency such as accommodation and staffing are priorities for the Ministry of Labour and Small Enterprise Development.

In closing, Mr. Chairman, I wish to emphasize that the Ministry of Labour and Small Enterprise Development is committed to working with the OSH Authority to strengthen the agency, to improve its function in the implementation and enforcement of the OSH Act.

We totally embrace the feedback received from stakeholders through this Joint Select Committee, as well as other fora, in strengthening the framework for occupational safety and health compliance in Trinidad and Tobago and in promoting a culture of safety and health in all work places.

Once again, thank you for being able to contribute to this enquiry and I look

forward to fruitful discussions.

**Mr. Chairman:** Thank you very much Mrs. Willis, but I forgot to mention that once you go over your time by a minute, there is a \$1,000 penalty. [*Laughter*] So, I think you went over by two. I am just saying, I mean, the others coming after you will have the benefit of not being able to contain their pockets, but I hope you would have walked with your money to dispense your charge before leaving.

So I will now turn to Mr. Richard Madray, Permanent Secretary in the Ministry of Health and you were advised. You heard my commentary about the two minutes and the penalty, so you are aware of the penalty now, eh.

**Mr. Madray:** Thank you, Mr. Chairman, good morning, and good morning also to members of the Committee. Not having that kind of money to spend, I will keep my comments very, very brief indeed.

I take this opportunity to reaffirm the commitment of the Ministry of Health to complying with and implementing the provisions of the Occupational Safety and Health Act.

In this regard, on November 07, 2017, a Memorandum of Understanding was signed with the OSH Agency to strengthen our partnership in compliance with the Act. It is envisaged that today's proceedings will be insightful towards promoting occupational health and safety throughout the system. Thank you.

**Mr. Chairman:** Marvelous, thank you very much. There is also a prize, for all those who finish within the time, of a \$5,000 loan. [*Laughter*] Now it is your turn, Mr. Deputy Chairman.

**Mr. Dhanraj:** So, good morning, Chairman, the hon. Sen. Ian Roach and other hon. members of this Joint Select Committee. The Occupational Safety and Health Authority and Agency thanks the Committee for this opportunity to be of assistance in its enquiry into the occupational safety and health compliance within

the public service.

OSH, in its preface to its written responses, has attempted to provide the Committee with a background of OSH, as well as its operations, challenges and achievements. The proclamation of the Occupational Safety and Health Act, marked a watershed moment in the recognition of the rights of workers in Trinidad and Tobago to a safe and healthy work environment. It is intended to prevent or reduce injuries to ill-health as a result of accidents and incidents in the workplace.

Additionally, the Act provides for the regulation of the safety, health and welfare of persons at work. OSH is of the firm belief, that safety and healthy work spaces benefit not only workers and those who depend on them but also employees through higher productivity and profitability. This will ultimately contribute to increased economic activity across the national landscape. OSH is firmly committed to its mandate and welcomes any assistance and guidance from the Committee in achieving its goals. Thank you.

**Mr. Chairman:** Thank you very much. Marvelous. I would now invite the Ministry of Labour and Small Enterprise Development to introduce the other members of your team.

**Ms. Willis:** Thank you. To my immediate left, I would ask—

**Mr. Chairman:** They can introduce themselves, yeah.

*[Introductions made]*

**Mr. Chairman:** Ministry of Health.

**Mr. Madray:** Good morning, I will ask the members of my team to introduce themselves, starting with the Chief Medical Officer.

*[Introductions made]*

## OFFICIALS OF THE MINISTRY OF HEALTH

Mr. Richard Madray

Permanent Secretary

UNREVISED

|                     |                                        |
|---------------------|----------------------------------------|
| Dr. Brian Amour     | Chief Medical Officer (Ag.)            |
| Dr. Mark Allen      | Occupation Health Analyst              |
| Dr. Ishta Rampersad | Occupational Medicine Specialist NWRHA |

**Mr. Chairman:** OSHA Authority.

*[Introductions made]*

### OFFICIALS OF OSHA

|                            |                                   |
|----------------------------|-----------------------------------|
| Dr. Surendra Dhanraj       | Deputy Chairman                   |
| Mrs. Pettal John-Beerens   | Deputy Director Legal             |
| Mrs. Carolyn Sancho        | Executive Director                |
| Mr. Corey Harrison         | Human Resource Manager            |
| Mrs. Indira Mc Farlane-Lee | Secretary to the Board            |
| Ms. Anastasia Marchan      | Research Planning Development Mgr |
| Mr. Franz Brisbane         | Chief Inspector (Ag)              |
| Mr. Farzan Ali             | Member Board OSH Authority        |

**Dr. Dhanraj:** Chairman, similarly, I will start with our Executive Director on the right.

**Mr. Chairman:** That is it? Thank you very much. I would just like to remind members, when you are speaking, you will activate your microphone and when you are finished speaking just deactivate it, so it can be recorded and not interfere when you are not speaking.

The proceedings this morning will go along on the basis that we will ask you some questions and require your answer, your assistance, as best as it can be. What you say in these proceedings, you know your rights. You are protected. You have the same privileges as parliamentarians, while you are giving evidence or assistance to the Committee. So fear no evil. Okay? There are no consequences to come from it, once you are truthful. Okay? So we will start off by asking some

questions.

I would like to ask the first question. You know, on the last occasion we met with the unions and we met with members of the disability committee on the last occasion. We had a very good representation and it was a very informative interaction and I saw the benefits. In reviewing the Minutes of that meeting, I saw the benefit of taking it in the order in which we did, having them come before as members who would have interacted with the Act itself and the Authority and the Ministries.

So we were enlightened as to some of the clear, I think deficiencies, and some of the areas of concern, which we would hope that, at the end of today's proceedings you would be able to have it clarified or enlighten us further. Yes?

So the first question I want coming from that, is that, this came from JTUM, the umbrella union, the joint trade unionists, and they did ask the question. They said that although the OSH Act was passed in 2004, amended in 2006, and the agency established in 2007, to date, the Act has been ineffective. Now, I would like to ask the OSHA to begin with, what is your reaction to that? Is that a true, a really accurate statement or inaccurate? If not so, could you enlighten us as to the effectiveness of the Act?

**Mr. Dhanraj:** Chairman, in response to that question, there are some challenges definitely that have been experienced by the OSH Authority and Agency. During its relatively brief span of about 10 years, some of the issues that I would want to list:

- vacancies in key leadership positions and operational positions as well; that would have hampered the ability of the inspectorate to deliver.
- finding of permanent offices;

- lack of policies and procedures;
- a lack of funding and training opportunities for the inspectors;
- outstanding salary negotiations and payments of gratuity to employees.

Those stand out as some of the major challenges that would stymie its ability to deliver.

However, since the establishment of the current Occupational Safety and Health Authority, which was in May 2016, it has focused on coordination and collaboration with stakeholders including the ILO; filling key leadership and operational vacancies, thereby strengthening the agency; strengthening the corporate governance structure through critical human resource policies and procedures; increasing human and the IT resource of the inspectorate; improving inspections and increasing enforcements, which you know, always high on the list; prosecution of occupational safety and health offences. I think in that area we probably made the biggest improvement.

If I can go on to give some figures. With respect to enforcement activity by the inspectorate, there were 47 and 53 improvement notices issued in fiscal 2016 and 2017. This represents a 262 per cent and a 212 per cent increase relatively over the preceding year. So, a definite increase there.

There were 1,490 inspections conducted for the year prior, which again represents about a 42.4 per cent increase over the previous year. The health and safety inspector inspections, we usually have a metric where we look at 10 inspections per inspector, that is a Health and Safety Inspector I, and five for a Health and Safety Inspector II. The average for the preceding year was 9.5 for the Is, and five for the Inspector IIs. So, definitely, we are pretty close to our targets there. I mean, put another way, that is about 154 inspections for the agency per

month; a huge increase from the past.

**10.35 a.m.**

**Mr. Chairman:** Dr. Dhanraj, let me just ask you a question again. The basis of the OSH Authority and its agency is to do what? What is its objective? What is its sole objective?

**Dr. Dhanraj:** To enforce as stated in the Occupational Safety and Health Act.

**Mr. Chairman:** To make work environments safe. Right? And, therefore, you are giving me some critical information in terms of the breakdown to assess its efficacy, its effectiveness. So would you, in answering the question that I asked, would you say it has been ineffective or has it not been effective and if you have to grade it out of 100 per cent, what would you give it? A passing grade, a failing grade?

**Dr. Dhanraj:** I think of recent we have a passing grade, not 100 per cent.

**Mrs. Sancho:** Chair, Carolyn Sancho, Executive Director of OSHA. The Act, as you know, it was proclaimed in terms of 2007 and it has been ongoing. However, we have noticed that although there are some areas that are effective, for instance, refusal to work, employer's responsibilities, those areas have been effective, but in enforcing the Act, we have recognized—because it was the first time the Act was actually used, so now we are using it for the first time to see how it works.

There are deficiencies. As a result of that, we have embarked on amending the Act and this took place—well the first set of constitutions for that took place last year. Based on feedback from the view holders in terms of how they see the Act and the deficiencies they have identified, we are using that information to now improve the Act.

So, in terms of effectiveness, I would say 50 to 60 per cent in terms of how effective the Act has been to allow us to enforce, but we are working towards

getting it higher than that based on what is happening in industrial establishments now and also the feedback coming from the people against which we enforce. So we work collaboratively with.

**Mr. Chairman:** Thank you very much for that. Ms. Ameen?

**Miss Ameen:** My question is to the Chairman of the OSH Board. You indicated improvements in terms of filling vacant positions, improving your human and IT resource. So either you or your Human Resource Manager, if you could indicate to the Committee, the number of vacant positions you still have within the Authority and what is required to fill those?

**Mr. Chairman:** Just for clarification purposes for the benefit of the public, in answering member Ameen's question, there is a distinction between the authority and the agency. So I want to believe that member Ameen wants to know: what is the agency's deficiencies as opposed to the board, the authority? Yes?

**Mr. Harrison:** Currently we have 87 vacancies in the agency out of 152. So we are currently operating at about 40-something per cent. The constraint is finances. So that is about it.

**Ms. Ameen:** Are these positions contract positions?

**Mr. Harrison:** All our positions are contract positions.

**Mr. Chairman:** All are? What is the budget of the authority?

**Mrs. Sancho:** The budget of the authority for—?

**Mr. Chairman:** Of the agency?

**Mrs. Sancho:** For employment?

**Mr. Chairman:** Do you all have an overall budget for implementation for the fiscal year? Do you have a fiscal budget?

**Mrs. Sancho:** Well, every year it varies. This last period for the recurrent, I think we had just over \$21 million budget for recurrent expenses.

**Mr. Chairman:** For recurrent expenditure.

**Mrs. Sancho:** Yes. And then we have \$2 million for PSIP expenses.

**Mr. Chairman:** For what?

**Mrs. Sancho:** Two million for PSIP expenses; developmental projects.

**Mr. Chairman:** Right? And \$21 million has been found to be inefficient?

**Mrs. Sancho:** It is inadequate yeah.

**Mr. Chairman:** It is inadequate by how much? By what? What would be the adequate requirement to have you all up and running at 100 per cent or a certain higher level than 47 per cent? What would be the budgetary requirements?

**Mrs. Sancho:** As the HR Manager said, we have 152 positions that have been approved, and over time I think, just for contract employment alone, off the top of my head it is about \$48 million it would need for recruiting the personnel that we would need. What we got for this particular period was \$14.250 million for recruitment, so that would keep us with the 65 people we currently have, and there was a \$250,000 excess on that budget so we could not really bring anybody on. So it is really under-resourced in terms of our contract employment.

**Mr. Chairman:** Yes, Ms. Willis. Sorry?

**Ms. Willis:** Chair, permit me to add that the Ministry recognizing the constraints that the agency is facing, we recently sought to move money from within our other votes in the Ministry to put towards the agency's vote for their contract employment—

**Mr. Chairman:** Like what? Could you give a figure?

**Ms. Willis:**—so that they could essentially bring on approximately three to four more Inspectors.

**Mr. Chairman:** So that is like what, \$2 to \$3 million or \$1 million?

**Ms. Willis:** Approximately I think it was \$500,000.

**Mr. Chairman:** So, that is only a drop.

**Ms. Willis:** Yes.

**Mr. Chairman:** The thing is, the question I was going to ask, I mean is almost self-evidentiary that the agency cannot be proactive. If it is you are operating so much under an efficiency level, I would see and I expect an agency of this nature to be proactive as opposed to be just reactionary in terms of responding to complaints in terms of inspecting and seeing how much compliance and so forth. That is almost impossible. Am I right? You cannot shake your head. You have to tell me yes or not for it to be recorded.

**Mrs. Sancho:** Yes, you are correct.

**Mr. Chairman:** It is. It is very unfortunate. The Ministry, I mean, as the line Ministry, have you all ever made any approaches to the Government, to the Cabinet, to improve this budget?

**Ms. Willis:** Yes Chair, but as you recognize, we are operating right now within certain fiscal constraints. While the upcoming budget for the next fiscal, we would have sought to treat with this issue in terms of increasing the allocation to the agency.

**Mr. Chairman:** So what will you all be asking for, if you can project what is the amount you are going to be asking for. I mean, what the member said just know is that you were looking at \$48 million to make it efficient.

**Ms. Willis:** I do not believe we would be looking at that figure, but certainly more than what they are currently allocated which is approximately \$18.8 million.

**Mr. Chairman:** Member Smith, you wanted to ask a question?

**Mr. Smith:** Yeah. Thank you, Chairman. In your submission you stated that a total of 2,497 complaints have been received by the OSH agency. I would like two answers for that: what period was that figure for and how much of that was split up

between the public sector and/or public bodies and private bodies?

**Mr. Brisbane:** It was from October 2006 to March 2018 and of the figures to total it off for you, it would be 81 for public, 81.

**Mr. Smith:** Eighty-one is from public bodies and the rest is from the private.

**Mr. Brisbane:** Yes, from the private.

**Mr. Smith:** All right. Thanks.

**Mr. De Freitas:** Thank you, Mr. Chairman. This question to the OSH agency. You just indicated that you have 87 vacancies in the agency and in the breakdown that was given, out of 30 positions varying between one vacancy and six vacancies, there is one that stands out with 32 vacancies that is Safety and Health Inspector I. Why is that particular position that seems to me to be key, have so many vacancies in it? Is there something wrong with the job description or the remuneration?

**Mrs. Sancho:** Well the job descriptions are approved job descriptions from CPO, so that is what we use. It has not proven to be an issue in terms of the reasons for not having enough Safety and Health Inspectors. Most of the reasons, in terms of why we do not have them, stems from lack of funding to employ them. The last funding we got we employed seven last year July. We brought seven Inspector Is on and one Inspector II, but based on funding, we then bring people on.

**Mr. De Freitas:** But how key is that role to the agency in executing its work?

**Mrs. Sancho:** It is very key, because those are the Inspectors who are on the ground that go out and do the inspections. They do a reactive inspection and if we had more of them we would be able to do proactive inspections as well. So they are the ones that visit the industrial establishments, bring back the data and enforce the Act on the ground.

**Mr. De Freitas:** So then would a priority not be put on that particular post to ensure that you have enough? Because like I said, there are 30 posts outline here

varying in terms of vacancies from one to six, but in terms of managing the finances that are given, would there not be a higher priority put on the Safety and Health Inspector I given that key role?

**Mrs. Sancho:** Yes, and we did put priority on it in terms of the positions we intend to bring on first in terms of when we would need them. However, as I mentioned before, the funding is a problem and also space in terms of where they would sit when they come in, because we are also constrained by accommodation.

**Mr. De Freitas:** Okay.

**Mr. Chairman:** Just to pick from what member De Freitas was asking, the remuneration for the contract workers, is it based on a priority of the public service? Is it the private sector or public service?

**Mrs. Sancho:** It is public. We got those from CPO.

**Mr. Chairman:** From the CPO.

**Mrs. Sancho:** Yes.

**Mr. Chairman:** And is that posing a problem to attract? Apart from it not having the necessary resources, is it also a deterrent of attracting the right type of people to be able to be—

**Mrs. Sancho:** Yes, Sir.

**Mr. Chairman:**—report on board as well.

**Mrs. Sancho:** Yes, Sir. It is also a factor.

**Mr. Chairman:** Has the agency or the board considered what would have been a more attractive package so as to attract the quality of individuals you would like? Do you have such an assessment done?

**Mrs. Sancho:** Yes, we had that assessment done. When that terms and conditions expired in 2012, we had to put a submission towards CPO recommending what salary should be based on the industrial rates and rates around the world for

similarly-typed positions. So we would have put that forward to CPO since November 2016 I believe.

**Mr. Chairman:** And what has been their response?

**Mrs. Sancho:** The response—well the first response we got from the CPO was they were offering a 0 per cent rise for the period 2012 to 2015 and a 3 per cent rise for the period 2015 to 2018. We were then asked to resubmit justifications as to why we would be asking for such a rise, and we had provided that in March 2017, but we have not had any response from them officially. The Ministry has been liaising with them as well in terms of getting a response to that submission.

**Mr. Chairman:** Wow! Wow! That is a predicament. Sorry?

**Ms. Ameen:** Mr. Chairman, my concern is now the agency's ability to investigate complaints, because we did have a public hearing with other agencies including unions, and one of their main complaints is that when they make complaints they are not addressed, they are not investigated in a timely manner or not investigated at all. So my question to you is, is it that your human resource shortage is affecting your ability to investigate the complaints you receive or are their other impediments?

**Mrs. Sancho:** The agency does investigate the complaints. We have the statistics to demonstrate that. The complaints come via—we have a hotline and they come through that medium and people also send in complaints via other means. When we get the complaints, the complaints are prioritized. We have set some time frames as to when we should investigate them, depending on the severity. Some of them, we make initial phone calls to find out more information and then the Inspectors would then investigate them based on urgency. So we do investigate the complaints. However, because of the shortage of staff, we have an issue because we are supposed to have 48 Inspectors based on what was approved—48

Inspectors Is—we only have 16. So based on that we have to really prioritize these.

We have introduced a system where some of the complaints, depending on how severe they are, we sometimes close them off via telephone. So we have managed to do that as well to bring down the number of complaints. We had a backlog of 906 complaints last year, now it is down to 110 based on the fact that we have introduced a system to deal with them, so that we could fulfil our duties to those people who do complain.

**Mr. Chairman:** Could we hear from the Chief Inspector? What is your reaction to this? How are you able to function with these shortages as being highlighted here?

**Mr. Brisbane:** Thank you, Mr. Chairman.

**Mr. Chairman:** What are your greatest challenges at this point in time?

**Mr. Brisbane:** Our greatest challenge in this case will be human resource and finances. At the end of it, with 16 Inspectors with 14 in Trinidad and two in Tobago.

**Mr. Chairman:** Are you the Chief Inspector?

**Mr. Brisbane:** Yes, Sir.

Mr. Chairman: Okay.

**Mr. Brisbane:** So with 14 Inspectors in Trinidad and two in Tobago, I think was February or November last year, we had 210 recorded accidents that came in to the agency. As far as we are concerned that is our priority when it comes in to the agency. With regard to complaints and so forth, we try to prioritize based on our resources. So based on our assessing of the risk level of these complaints and accidents is how we will allocate our resources.

**Mr. Chairman:** This seems like a major challenge, because if member Ameen

was just speaking about the promptness in reacting to complaints being made, this was a very common complain coming out from our hearing prior to you all. I mean how effective this could really be? I mean, this has an immediate effect in terms of work productivity, because if it is that a complaint is made, for instance, in a school by teachers that there is an imminent danger—I would like you all to explain before you leave exactly how you all interpret what is “imminent danger” because it is a very blur area in terms of even from my experience dealing with issues like this from a legal perspective, that will allow persons to be able to leave their workplace and not be subject to be victimized, and I have to challenge it in court during the issue being resolved. How do you deal with that? I mean, how that is dealt with?

**Mr. Brisbane:** Again, like I mentioned before, it is all based on a risk assessment. Now, when you are dealing with teachers wanting to remove themselves from the premises, then we are looking at a refusal to work scenario and that in itself—from section 14 to 21 I believe in the Act—deals with refusal to work and that carries a specific criteria in itself. In that essence, they need to bring whatever their concerns are to the relevant authorities within that school scenario, if you are looking at that, where their safety and health committee together with themselves are to investigate the matter to legitimize their claims. Upon that, if it is that they are unhappy or unsatisfied or that their matters were not addressed then the agency will get involved. That is the process for refusal to work.

**Mr. Chairman:** But how do you check on the compliance of schools having these safety committees established? What is the status of that? How compliant are the schools in terms of setting up their safety committees? Are all schools compliant where that is concerned?

**Mr. Brisbane:** As far as to my understanding, no.

**Mr. Chairman:** No? So what does the agency do about that?

**Mrs. Sancho:** We met with the Ministry of Education recently to formulate a way forward, because we found that a lot of the complaints are coming out of the schools because of the infrastructural problems the schools have. But our aim is really to try not to close down the schools, but to find a way to fix the issue without having to disrupt schools unless it is imminently dangerous. So, again—

**Mr. Chairman:** Sorry. So what do you mean by imminently dangerous? Is there a unified understanding apart from what the dictionary meaning may mean? It means something about to happen right now. Is that how you all would look at it?

**Mrs. Sancho:** We look at it that way, but we based it on risk and calculating risk in terms of frequency by severity. There is a table, a five by five matrix that you would use to then determine from a numerical perspective how imminent this issue is going to be. That table has a red, yellow and green in terms of how it is defined, red being the worst and green being it is okay. So based on that risk assessment and using that numerical value, we will determine how imminent this danger is going to be and then take action from there. Ms. Ameen, you wanted to ask a question again?

**Ms. Ameen:** I want to ask the Ministry, I mean, you have a policy, you have a law and then you have the agency's ability to implement. What plans do you have considering your strategic development plans that you have outlined in your opening remarks to ensure that the agency is brought at least up to a functional capacity to fit in with the plans that you have for labour and development of human resource in our country?

**Ms. Willis:** Thank you member. As indicated earlier, the Ministry recognizing that the need for the agency to increase its number of inspections and to be proactive has decided that incrementally, we would provide the funding to bring on

more Inspectors. So we would have provided funding for this fiscal to bring on at least up to three to four Inspectors more.

**Ms. Ameen:** So, can I ask, when do you in your plan foresee that you will at least reach 80 per cent capacity in terms of staffing human resource at the agency?

**Ms. Willis:** I cannot give that information.

**Ms. Ameen:** I know you said you had a time frame and you intend to do it incrementally, so I expect that by this year you want to improve via a certain amount and you will have milestones for every year.

**Ms. Willis:** Yes, we do.

**Ms. Ameen:** If you do not have it that is okay.

**Ms. Willis:** But I do not have it at the moment.

**Ms. Ameen:** Can you send it to the Committee?

**Ms. Willis:** Sure.

**Mr. Chairman:** All right. Thank you. So we look forward to your response in writing. Now, Just to develop further from the—I asked you specifically about the schools, but what about the Ministries, the various ministries compliance with setting up these committees? I have a list that was provided in terms of an answer and there were at least 22 Ministries identified. I do not know if that is the entire complement of Ministries in the public service, but from the 22, I have seen that nine are not compliant—the Ministry and the departments—and some of them, for instance, the Service Commission is not compliant; the Ministry of Social Development and Family Services, not compliant; the Office of the Prime Minister Tobago Affairs, Central Administrative Services Tobago, not compliant; the Ministry of Health who is before us, which I would hope to hear something from them with that, not compliant; the Ministry of National Security Probation Services, not compliant; the General Administration—not compliant—the Trinidad

and Tobago Defence Force, not compliant; the Trinidad and Tobago Cadet Force, not compliant and the Office of Disaster Preparedness and Management, not compliant. I mean, really and truly? So the Ministry of Health is here. So first, let me hear why the Ministry of Health is not compliant when the Ministry of Health has a significant role to play under this OSH Act.

**Mr. Madray:** In respect of the—well, just as the situation would have been at the Ministry of Labour and Small Enterprise Development, it was important for us to fill relevant positions. As Dr. Allen has indicated in his opening remarks. He has been working with the Ministry for the past couple months. Fortunately, we can say that we have recently come into compliance with respect to the establishment of the Committee and there has been a meeting of that committee.

We put our attention to ensuring that we had the requisite capabilities in the Ministry to ensure that we could move forward and we are, therefore, very thankful that we now have a person occupying the position of occupational safety and health. Dr. Allen chaired the first meeting of the committee.

**Mr. Chairman:** For the benefit of the listening public, in particular, and the viewing public, could you tell us what is the requirement of a safety committee? What is the composition of it that makes it so difficult it seems to establish?

**Mr. Madray:** All right. I would ask Dr. Allen to respond, please.

**Mr. Chairman:** Dr. Allen, welcome. Good morning.

**Dr. Allen:** Good morning, Chair. The safety committee would be comprised of members of management and also worker representatives. The intention is that there would be open, honest discourse between the workers who are on the shop floor experiencing the hazards as they see it, and management to get a full appreciation of what is being experienced by the workers and a meeting of the minds to ensure that these matters are addressed as quickly as possible. So it is a

mix of worker representatives and management.

At the Ministry we have across the RHAs—all of the RHAs have health and safety committees, all of them, and also at the Ministry of Health we have a health and safety committee that is called a steering committee that would receive reports, information, from these various committees. So that we have oversight of all of what is happening within the Ministry.

**Mr. Chairman:** Is there a number that it may comprised of? In this mixture, is there a minimum or a maximum number?

**Dr. Allen:** The Act requires that once you have 25 or more employees that a committee is supposed to be established, which we definitely have exceeded, but what the arrangement is, is that each facility or division where work is happening where there are peculiar risks or issues that there is a committee there. So there would be subcommittees throughout and information, as I mentioned, would be fed into the steering committees.

**Mr. Chairman:** Subcommittees?

**Dr. Allen:** Yes.

**Mr. Chairman:** But is there a requirement that somebody—there must be a specialist in health and safety to be on that committee or not, somebody with some knowledge of what the Act or what is required in terms of the provisions of the Act.

**Dr. Allen:** Yes, there would be and this is where I would function to provide that technical—this is where I would provide that technical guidance and direction to the committee, but the committee members would also be in receipt of training.

**Mr. Chairman:** I am speaking about throughout the Ministries, all the Ministries. All of them have these committees set up? That is what I am speaking about, not just the Ministry of Health.

**Dr. Allen:** Okay.

**Mr. Chairman:** All the Ministries where committees are supposed to be set up under the Act, what is the composition? What is the nature? Are there specific qualifications to be on that committee? So I have a committee in roaches and flying whatever it is association. I have 25 persons. Do I have a minimum of five persons being on a committee and one of those committees must be somebody who is versed in health issues or a legal person? What is it?

**11.05 a.m.**

**Mr. Brisbane:** Mr. Chairman, if I may be permitted, again, Chief Inspector from the Occupational Health and Safety Agency. There is no specified number as outline in the Act, however, we do act—

**Mr. Chairman:** Section 25E we are speaking about here, right? Section 25E we are speaking about of the Act?

**Mr. Brisbane:** “Yeah”. What it speaks about is once you have 25 or more employees, but the composition itself is not specified in the Act. However, what we suggest in our guidance notes and stuff that we out when we are doing public sensitization, we give an example of a homogenous sample where you have both management and worker representatives.

And what we tend to also suggest is that you have persons from various aspects of the operation, so you literally get a view from every component of your operation a representative including employees, their representatives, management and upper management, so that you can all come together and express your views and come to a reasonable conclusion where there are any deficiencies within the organization.

**Mr. Chairman:** Member De Freitas would like to ask a question.

**Mr. De Freitas:** Thanks, again, Mr. Chairman. Just piggy-backing off what the line of questioning that the Chairman is going down. I remember outside in other jurisdictions in sort of Canada and in the United States, one of the things they do is that they have an OSH officer attached to the particular institution who is responsible for ensuring that the institution remains compliant with whatever OSH Act that they have in that particular country. And what I am hearing so far is that there is no specification in our Act, this is Trinidad and Tobago, for an OSH officer somebody trained because this is a field of study. So that Ministries or private institutions do not have an OSH officer, but you have a health and safety committee made up of staff members and management so that the discussion, when complaints happen, could happen at that level. But you believe that they should have an OSH officer in every single Ministry and in every single work place once you go above 25 employees to make sure that compliance is there all the time in relation to the OSH Act?

**Mr. Brisbane:** Sorry about that. It is stated in the OSH Act under section 6 where it speaks to that once you have more than 25 employees, you are to hire a safety and health professional to advise, and that is one of the components of the health and safety committee as well.

**Mr. De Freitas:** But that is what the Chairman was asking, if there is someone who is trained in occupational health and safety that is a member of the committee who can help guide each institution in relation to being compliant with the Act? So that if that is the case, so then the next question is: Why is it that we have so many Ministries and so many institutions not compliant by way to their health and safety committee? So if there is someone there in the institution who is responsible, whose responsibility it is to ensure that you are

compliant with the Act, then why are all these institutions not having their health and safety committee being set up?

**Mr. Chairman:** Nobody can answer?

**Mr. Madray:** Well this is an exploration. I do not know that I have an answer, but I can say that having been in a few Ministries this is the first one that I can clearly recall or know that there is a specific position of occupational health and safety analysts, but in other Ministries we would have tried to address the OSH requirements by placing it—by trying to pull together a combination of skill sets utilizing the human resource management division, and also the facilities and general administration divisions in particular.

So, I am uncertain whether the OSH Act requires that there be specialists in the field or whether the function can be performed by persons who acquire relevant knowledge, but whose core function may have been facilities management, HR or otherwise. I can say see that for some small organizations it might be challenging to create positions, and expensive to create positions of a dedicated occupational safety and health analyst.

**Mr. Chairman:** You know, just a follow up from what the line—we are going to come back to Mr. De Freitas just now. But on the last occasion Mr. Watson Duke was here and he was quite informative and constructive in his contributions, which I appreciated, and one of the issues he raised which is in line with what we are saying here and I will read. Right?

He also highlighted the fact that although there is legislation in place, there is no oversight by the agency to ensure the laws are implemented. Would that be an accurate statement?

**Mrs. Sancho:** Well that would be an inaccurate statement, Sir, because a lot of

the things that Mr. Duke said were inaccurate. When we inspect these organizations, it is during these inspections that we would see whether or not if people are compliant. Because of the fact that we have this shortage of staff, we tend to do reactive inspections based on the complaints that we get, but we also have in terms of the organizations or industrial establishments that are of higher risks like the oil and gas sector, we have a unit specially dedicated to them so we can have oversight over them even, whether they complain or they do not complain, we still have oversight over those higher risk by nature establishments.

**Mr. Chairman:** So how to you react to this?

That there has been an increase in accidents of 124 per cent during the period 2014 to 2015, to 2016 to 2017 demonstrating the agency's inability to ensure OSH compliance in Trinidad and Tobago?

Is that an accurate statement?

**Mr. Brisbane:** No, Sir, that is an inaccurate statement. The reason for that being, as of 2016 the agency has embarked on prosecution for falling to report an accident, and as a result of that, we have been prosecuting persons for that offence, and as a result of that we have an influx of accidents coming into the agency, and that is why the number have increased so drastically.

**Mr. Chairman:** Okay. So the percentage is correct, but the reason is inaccurate.

**Mrs. Sancho:** The numbers have increased. Yes. Because when the new board came in they placed an advert into the newspapers reminding the duty holders of their duty to report accidents, because accidents were being underreported, and they also placed in the newspapers the penalty for not

reporting. Based on that we had 124 per cent increase in people reporting accidents to us, and therefore, we then had to step up what we were doing in terms of looking at the accidents, and also our prosecution rate increased as well over that period of time based on what the board put out. So we did get more because people were reminded of their duty to report.

But we then put a procedure in place that the board approved for looking at accidents, again, in that prioritizing way of serious accidents as opposed to not so serious ones, so we have a three-tiered system, priority ones, twos and threes where we would then look at the accidents and then farm them in terms of how serious they are and how soon we go and look at it. So, we had to put a system in place to deal with that influx coming in.

**Mr. Chairman:** Okay. Thank you. Mr. De Freitas.

**Mr. De Freitas:** Thanks, again, just a follow up question to the Chairman. How many people have been prosecuted or how many institutions have been prosecuted? You said there was a bump, it went up. Do you know the number?

**Mrs. Sancho:** Legal director could answer that question or you.

**Mrs. John-Beerens:** Hello, again. Mr. Chair, members, to date we have had approximately 200 prosecutions from 2015 to date, whereas before that it was less than 10.

**Mr. De Freitas:** Okay. One of the things I wanted to find out because I am starting see from a holistic standpoint certain correlations, so let me just ask a general question that anyone can answer. What relationship to you think there is between OSH compliance and general productivity in Trinidad and Tobago?

**Mrs. Sancho:** There is empirically a relationship between those two. If employers would recognize that OSH compliance would increase productivity,

then we would have more compliance, I believe, but I think there needs to be that understanding that if you have health care work places and healthier employees, then you would have more work done, but we need to help them make that connection.

**Mr. De Freitas:** And then that is why I asked that question in relation to the specialists, the OSH specialists because there was a sentiment that the cost of certain companies or Ministries or institutions to hire an OSH specialist to drive that compliance, there may be a deterrence because of the cost, it is a specialist industry so obviously the remuneration might be high, but when you weigh that against productivity which is tied to profits, you realize then that no cost may be too high, obviously, with the economics, but you realize that it is really important to have a specialist in every single institution to drive compliance so that your productivity goes up, and subsequently where this comes into play, your profit goes up. So, you know, there is not much more that can be said in that, I think that is just really important to be stated.

**Mr. Chairman:** Could you switch off your mike for me, please? Now, we also had a complaint of the lack of compliance in particular with dealing with section 26 of the Act which deals with the means of escape in case of fire. Can anybody throw some light on the accuracy of that?

**Mr. Brisbane:** The fire authority or the Trinidad and Tobago Fire Services is the authority on fire in Trinidad and Tobago however, the OSH agency is basically the enforcer of that piece of legislation. So at the end of it, a certificate which is a requirement under section 26, it does not necessarily mean that it poses a great danger or a risk to the environment. The environment or the hazards have to be of such a nature that will cause a situation to make it

imminent that can cause individuals to leave a building, but other than that there is no real great danger with regard to a fire certificate because all it clearly identifies as an institution, is required for your building.

**Mr. Chairman:** No. No. What section 26 deals with, right, the means of escape in case of fire, having fire escapes, right?

**Mr. Brisbane:** “Yeah.”

**Mr. Chairman:** So is that, by and large, complied with in many of these buildings?

**Mr. Brisbane:** In most industrial establishments, yes.

**Mr. Chairman:** Do you all carry out specific investigations to deal with that requirement?

**Mr. Brisbane:** On every visit that we go to, Sir.

**Mr. Chairman:** Is this building compliant?

**Mr. Brisbane:** Well, Sir, until we have done an exercise on this building then we will be able to answer that question, Sir.

**Mr. Chairman:** So how do you prioritize dealing with the specific public entities that you are going to determine whether or not they are compliant or not? Do you have a list or something like that?

**Mr. Brisbane:** Again, Sir, it is based on our prioritization system and based on our hierarchy of risk. Most of our public agencies are not classified as high risk.

**Mr. Chairman:** What will you classify as a high risk?

**Mr. Brisbane:** Any organization that we are looking at where we can have multiple fatalities or multi-critical injuries.

**Mr. Chairman:** So it has nothing to do with the stories, how high a building is or anything like that?

**Mr. Brisbane:** No, Sir.

**Mr. Chairman:** Well I think that will be a criteria.

**Mr. Brisbane:** Not necessarily because you could have—let us say for this building we have 15 stories, but once you have met the criteria and you have been issued a fire certificate and so forth that outlines the criteria: you have a means of escape; you have means of against protection from a fire and so forth; you have your individuals your wardens and stuff set out as outlined in a fire certificate.

**Mr. Chairman:** So what you are saying basically, a fire escape is just one element—

**Mr. Brisbane:** One, just one.

**Mr. Chairman:**—just one thing with that. You want to ask a question?

**Mr. Smith:** Chair, what we should ask is: What are the common types of risks, because we are only hearing about fire and certain things. What are the common risks that you all see in particular?

**Mr. Brisbane:** In most of the buildings we look at leaking roofs and so forth where we have exposure to some form of biological agents where we have mould-like substances, as we like to call it, that are formulated. We have basic trips, slips and falls, electrical issues as well, some of these places have not be certified by the Government Electrical Inspectorate which is now mandated at for every five years. Most of the stuff is basic institutions, lack of maintenance of machinery, lack of maintenance of your place of work, sometimes it is just storage, how you store, I can speak for some public and government agencies, storage is an issue, so they store stuff according to where they find a space and sometimes that in itself hinders your access and egress.

**Mr. Chairman:** One of the complaints that came before us was, I think, was from, if my memory serves me right, from the President of the PSA because he was very active in the last year or two in terms engaging with OSHA, the Government and his membership in terms of closing down buildings, I know the Immigration department was one, the BIR was one. And what he was saying is that in some instances you have fraudulent fire certificates were being issued. Do you get an official complaint and did you all look into to it?

**Mrs. Sancho:** We have not had that as an official complaint. The fire certificates would tend to come from the fire authority, they are responsible for doing that, but we have not had that as an official complaint. The process that Mr. Duke used for vacating buildings was the wrong one, it did not follow the process that you would use if you were trying to close a building down. As a matter of fact, Mr. Duke's headquarters right now is not compliant and we have filed that in court in March for both his number 89 and 91 buildings, those two buildings are before the Industrial Court for non-compliance as of March. So, yes.

**Mr. Chairman:** But what will promote the agency to close down an agency for non-compliance? How severe, what is your criteria? How severe it must be before you issue a closing down certificate or something like that?—or mandate—

**Mr. Brisbane:** Again, that will fall—for us to issue a prohibition issue notice, it would be for two reason and two reasons only. If it is that we had previously visited the premises and we had given you a time frame in which to rectify these issues, and upon a re-inspection we recognised that it was not complied with, we may issue a prohibition notice in that regard, or it is that what we classify as

imminent danger where life of limb of an individual is threatened, then we will issue a prohibition notice to that effect.

**Mr. Chairman:** Thank you. Ms. Ameen.

**Ms. Ameen:** Mr. Chairman, very often in the public domain we hear different unions make complaints or threats to shut down buildings because they are not compliant with the OSH regulations. We have issues such as old buildings, storage of old documents, sick building and mould, and well reports that the employees would have gotten ill, respiratory illnesses, medically examined. What is your response to those complaints? And I also wanted to get from you, what role does the Ministry of Health play in making a determination where this is concerned?

**Mr. Brisbane:** To date, we have had zero occupational diseases reported.

**Mr. Madray:** I will ask our Acting Chief Medical Officer to also make a contribution at this point in terms of what the Ministry is planning to do to ensure that we enhance the reporting requirements regarding the OSH Act.

**Dr. Amour:** In terms of reporting requirements with the OSH Act, we had have discussions, very recently, with the OSH agency, and we have given a commitment in order to look at the strengthening of the reporting requirements. Prior efforts were made as recent as last year, the Chief Medical Officer would have written County Medical Officers of Health that are the stewards of public health throughout the country to remind those officers in terms of ensuring that diseases are occupational incidents/accidents or injuries are reported through the health system up to the Chief Medical Officer and to then be forward, those reports, to the occupational safety and health agency.

So plans are being reenergized in collaboration with the OSH agency to

ensure that our physicians are, one, trained to increase their level of clinical suspicion, and in that regard we do have internal resources in terms of occupational health physicians/specialists, so that is one plan.

In terms of internal training and sensitization to the frontline physician/staff whether there be an accident and emergencies or health centres. And then, of course, part of that training will ensure the greater compliance in terms of reporting through our internal chains up to the Ministry of Health and for which we said before, Dr. Mark Allen as the occupational specialist is also going to be part of that solution. So that is what we do intend to do within recent discussions and also too, within the framework of the recent MOU that was signed between the Ministry and the OSH agency last year.

**Mr. Chairman:** Thank you. In responding, this is the Ministry of Health again, eh, in responding to our submission you stated in your submissions that, the Ministry plays a central role in the administration of the OSH implementation. Could you identify and elaborate on what actually the Ministry has done to fulfilling this critical role and what the critical role has been so far?

**Dr. Amour:** Chairman, and members, the role of the Ministry of Health as per the OSH Act and even within our own strategic objectives are several fold. One, is the Ministry of Health in and of itself as a government Ministry complying with the OSH Act in and of itself. So as I said before, within our regional health authorities we do have occupational health units and occupational specialists and managers in OSH that seek with the health and welfare of the employees within the health sector whether they be in Regional Health Authorities or the Ministry of Health.

The other key role as envisioned in the Act in several portions of the Act

are to deal with industrial establishments in general and the role that when they would have acquired an accident or injury or illness by nature of coming to health institutions for treatment that is the reactive phase, those sorts of reports would come through the Chief Medical Officer for reporting to the OSH authority, as well as in the Act, it defines, if the Chief Inspector through the OSH agency, has a serious accident or injury to report to the Chief Medical Officer for investigation.

And on the more proactive side, as I said, apart from the training to increase the level of clinical suspicion among physicians or persons who present, there also is a requirement in the Act for the relevant industrial establishments to employ, bearing their own cost, to have medical practitioners be involved in ensuring the health and welfare of their employees in terms of doing proactive medical examinations, all of that is within the purview of the Ministry of Health in terms of an oversight. So persons both in the public and private medical fields that is the summary of the roles of the Ministry of Health.

**Mr. Chairman:** Okay. Thank you very much. Let me just get straight to a matter that is close to my heart. Does the Ministry plan to include persons with disabilities as stakeholders on the committees?

**Dr. Amour:** In terms of persons with disabilities to be members of the committee, once persons are willing or eligible to serve, the Ministry as far as I am aware has no objection to such an undertaking. So as far as I am aware there is no particular barrier or hindrance on that basis to serve in any capacity with respect to occupational safety and health.

**Mr. Chairman:** Now in terms of the deficiencies or the improvement in the legislation, what, if any, has been suggested to the relevant Ministry, probably

the Ministry of Legal Affairs or the line Ministry in improving the legislation that, so far, has been proclaimed or activated?

**Mrs. John-Beerens:** If I may, through the Chair? We have had a series of consultations, public consultations and from those consultations there have been a few areas that we have identified for particular focus. For instance, we have regulations pursuant to the Factories Ordinance by virtue of section 98 of the OSH Act, however, these regulations are quite outdated because they were based on the 1948 Ordinance, so we in process of having those reviewed, replaced if necessary, we have also outlined approximately 10 pieces of regulations that we are in the process of doing policies for. We have done six thus far in draft, the authority has approved four. Also, from the consultation I would read from my notes some of the areas in particular.

**Mr. Chairman:** Sure.

**Mrs. John-Beerens:** So it was agreed that there should be an overall increase in fines. The structure of the OSH authority and agency should be clarified or even revised; there should be an increase in OSHA's autonomy, for instance, something more akin to a regional health authority or the EMA; OSHA should be authorized to charge fees for certain functions; the power to prosecute under the Act should be clarified because as it is stated the inspector has that power whereas in practice it is normally done by counsel from the agency. We had one judgment, it was a Green Dot judgment that was raised and it was decided that the action could be brought in the name of the authority and therefore, any of the lawful representatives could prosecute, but this is something that we to have need clarify or simply stated.

As you mentioned before, the subsidiary legislation should be amended.

Definitions, this is also a very key area as you had alluded to it before, the imminent danger. There are several key definitions that are not included, for instance, not even the term “accident” is defined in the Act. The critical injury definition as well should be expanded and updated. Certificates required under the Act should be revised in terms of their duration, so far as it stands now, it is just a requirement to have certificates for certain things, but it was proposed that perhaps a time frame for expiration should be incorporated.

Review, reporting requirements for notification of accidents in terms of time frames and requirements. We have seen, we have had several views expressed that the time frames may be a little onerous. Also, it was suggested that it is not clear in terms of what needs to be reported, again, going back to definitions, there is no definition of “medical attention” which is one of the requirements for reporting.

Going forward, guidelines for risk assessment should also be provided. The burden of proving the delaying of an inspector should be lessened. As it stands now under the Act it must be proven that there is wilful delay in the provision of information to an inspector for an investigation, and we are saying that is fairly onerous because you will have to get, I “doh” know, statements from persons willing to come forward to prove that this is some sort of deliberate act from their employers.

**Mr. Chairman:** As opposed to a being neglect.

**Mrs. John-Beerens:** Yes. Also, the extent of the exclusion of residential premises should be clarified. As it stands here in our Act also in the UK, residential premises are not covered by the Act. However, this is not to say, for instance, building contractors performing work at a residence, it does not

preclude or exclude the duty of the employer to make sure that certain policies and procedures are put in place prior to actually performing work on the premises.

**Mr. Chairman:** Well not to stem your flow, but let me ask something that jumped out at me, I “doh” want to forget it, is that how do you deal with removing yourself in terms of workers, well if they are considered workers, who are in essential service, members like the prisons, the police officers? How do you deal with issues of OSHA with those types of employees?

**Mrs. John-Beerens:** It is only under the “refusal to work” mechanism that those persons are excluded, they are not allowed to activate that procedure however, they are still covered under the Act as a whole. I do not know if that answers your question.

**Mr. Chairman:** Well, how does that operate? I mean, enlighten us. If there is an imminent situation or imminent health risk for them, how to you deal with that?—and there is a report to the agency. How do you all deal with that?—and it is imminent. How do you deal with that? Have you ever had an issue like that?

**Mr. Brisbane:** When you look at it, if it is—

**Mr. Chairman:** First of all, Chief Inspector, have you ever had an issue like that to be dealt with?—the police or the prison officers.

**Mr. Brisbane:** I think there is the Roxborough Fire Station and there was the Point Fortin Fire Station.

**Mr. Chairman:** And how was it dealt with?

**Mr. Brisbane:** Well the Point Fortin Fire Station prohibit notice was issued for the Point Fortin Fire Station, and they have subsequently been removed from

that station and housed elsewhere.

**Mr. Chairman:** And that was determined on the basis of being imminent danger?

**Mr. Brisbane:** Yes, Sir.

**Mr. Chairman:** But what was the danger there in that instance?

**Mr. Brisbane:** Well as far as I am aware, the flooring and structural integrity of the building was compromised.

**Mr. Chairman:** In the recommendations of improving the Act, is anything being proposed to deal with that type of issue in a more comprehensive way, in a more effective way? It is creating any challenges for the agency to implement?—where you have issues like that to deal with, essential service, I mean, by its very nature the essential services are exempted under the Industrial Relations Act from strike and so forth. Right? So how is this being dealt with?

**11.35 a.m.**

**Mrs. John-Beerens:** It is one of the areas that we propose to examine, but we are looking at other, perhaps what is done in other jurisdictions, but we have not actually put forward any position as yet. But we are—

**Mr. Chairman:** Okay. So, you all are looking into it.

**Mrs. John-Beerens:** Yes, we are.

**Mr. Chairman:** You wanted to add something? Sorry, I did not mean to, were you finished with what you were saying before?

**Mrs. John-Beerens:** I was just about—I am almost to the end. I think the last two points, two bullets: The procedure for prosecution of health and safety offences should be outlined and clarified. Also it was proposed that a commission should be established to deal with all prosecutions under the Act. As it is now, there is

some ambiguity based on the definition of court under the Act. Part of it, court is a Summary Court, which is a Magistrate's Court, then you have the Industrial Court. So, the Act speaks to safety and health offences which are prosecuted in the Industrial Court, and then it also speaks to summary offences, which are basically criminal. But there is a general position by the courts that they are all criminal offences to be heard before the Industrial Court.

**Mr. Chairman:** Before the Industrial Court?

**Mrs. John-Beerens:** Yes.

**Mr. Chairman:** Sorry, before the Industrial Court.

**Mrs. Beerens:** Yes.

**Mr. Chairman:** And your proposal is to do what?

**Mrs. John-Beerens:** To establish an independent commission to treat with all matters and outline procedures, specifically in relation to safety and health under the Act.

**Mr. Chairman:** But, when you have a matter that may be like criminal, you will the authority [*Inaudible*] and to deal with it, or you will want it to go in the Magistrate Court? What is the other jurisdictions experience or position on that?

**Mrs. John-Beerens:** Well, in the UK for instance, it is specifically stated that it is a criminal matter. Our jurisdiction is it not quite clear in terms of the nature of that.

**Mr. Chairman:** But, should we make it criminal?

**Mrs. John-Beerens:** "Hmm." I do not know sure what the view of the agency and authority is, but I am not suggesting—

**Mr. Chairman:** I am not trying to put you on the spot, eh, but just in terms of experience and experience locally, and what you are gleaning from, from the experiences internationally, best practice, "nah". Just from that perspective.

**Mrs. John-Beerens:** Best practice, jurisdictionally, these offences are deemed criminal offences.

**Mr. Chairman:** Should you, criminal. I mean, at the end of the day, health and safety issues are serious issues, have been affecting, as one of the members asked about productivity, and if the agency could be properly resourced I think it can assist in achieving productivity, definitely so, you know. Member.

**Ms. Ameen:** Mr. Chairman, I wanted to follow up, and I want to express appreciation to Mrs. John—

**Mrs. John-Beerens:** Beerens.

**Ms. Ameen:** Beerens, thank you—for your recommendations, and I wanted to ask—the Chairman asked a question earlier about the inclusion of differently-abled persons on the committee, but what I wanted to ask, is you had any recommendation for improvement to the Act and the procedures with regard to differently-abled when it comes to access, their safety, in case of an emergency, evacuation and so on, do you have any recommendations specifically to provide for persons who are differently-abled?

**Mrs. John-Beerens:** Well, the Act as it stands now treats with all persons, and there is also that requirement for proper access and egress, which can also apply in situations such as for disabled persons. But it is something that recently we did decide to explore further in terms of our recommendations for amendment.

**Mr. Chairman:** Because just to piggyback on that very critical intervention by member Ameen, which I do appreciate very much, and it would have been remiss of me not to raise that. So I thank you very much for raising that. The fact is that the Act, at its present state, cater for all persons. When you are dealing with a differently abled there must be specific type of requirements to deal with that. I can tell you practically from it, because most times I go into a building I am very

concerned how I am getting out in terms of emergency.

Because the best of us are trained to do this and do that in case of emergency, but self-preservation always kicks in most times, and people would exit for themselves. So, why come into this building and say if there is an emergency what do I do? Do I fly wings as on my way out of a window or something like that? You know, so it is a serious concern, and I do concern myself in any building I go into, where do you get out of it? Because, no one knows exactly when a fire or an emergency will take place, and we have seen what has gone on in England, First World country, that we take precedence from in many instances, where there was an inferno with a structure, and how many lives were lost. So, we want to be proactive and pre-emptive in preserving and protecting innocent lives, and vulnerable lives.

So, I think that is something that needs to be dealt with urgently, because in terms of emergency you may already have ways how people could get out here in terms of getting out of a building for an abled-body person. You could slide down. First thing they tell you, not to use an elevator in times of a fire. What happens to a person who is in a wheelchair? What happens to a person who is blind, or any of those instances? What are the specific requirements? So, those are serious issues I would like you, when you are making your recommendations, that we can take on board to help amplify or to certainly have addressed in any amendments to take place. Yeah?

**Mrs. John-Beerens:** Thank you for your suggestion.

**Mr. De Freitas:** Thank you, Mr. Chairman. I just wanted to ask in relation to the amendments, are they ready for submission to the Parliament to amend the Act?

**Mrs. John-Beerens:** As the PS indicated, they are actually now being reviewed by the Ministry of Labour—produce a policy document, also after that, has to go to

the Chief Parliamentary Counsel. So, no.

**Mr. Chairman:** I am know I am just coming to the end of us this. This has been very informative. Again, I mean there has been qualitative in terms the exchanges that has been taking place this morning, for which I appreciate, because I think that a lot has been clarified in terms of following from our last enquiry. But, what is the relationship, do you think the agency—I think you may have hinted—one of you may have hinted to it. Having the agency under the immediate supervision of the Ministry of Labour and Small Enterprise Development, is that a kind of himself looking upon himself kind of thing? I mean, do you all have a—is it a healthy relationship? Is it one that could be better strengthened by having a more separate existence? You are also housed in the Ministry of Health, not so? Is that not so? Or you were once housed in the Ministry of Labour? Not the Ministry of Health, but the Ministry of Labour?

**Mrs. Sancho:** Some of us are housed in the Ministry of Labour's building on Duke Street and some of us are over at Alexandra Street.

**Mr. Chairman:** I mean, what of that relationship, how is it managed?

**Mrs. Sancho:** We report to the Ministry of Labour on a monthly basis on activities, and also on our finances.

**Mr. Chairman:** But the Ministry of Labour is also under your supervision, eh.

**Mrs. Sancho:** Yes, as well.

**Mr. Chairman:** It seem to kind of?

**Mrs. Sancho:** Yes.

**Mr. Chairman:** So, Madam PS, I mean, what do you think? Is it better done by they being moved completely away from your stewardship, and given a more independent existence to more effective? Because, I mean, they are at some point in time policing you. That was a hard question, eh?

**Ms. Willis:** [*Laughs*] It is. It is. But it is one that is worth considering. But, given the current structure and functioning of the agency, I cannot see that happening at this time, in terms the status of their employees being on contract.

**Mr. Chairman:** Yeah. Because, I have a situation where the agency carries out an inspection based on a complaint from a worker or something of the Ministry of—any of the Ministries, the Ministry of Labour as the case may be—

**Ms. Willis:** Yes, and we would seek to comply with whatever.

**Mr. Chairman:** And it is an imminent thing to close it down. I mean, you giving me my funds, they say he who controls, or she who controls the purse controls the say. As they say, “how da go look?”

**Ms. Willis:** But that should not prevent them from doing what they are required to do.

**Mrs. Sancho:** Chairman, we actually did that before. We had closed down the Duncan Street office under the Ministry of Labour. We were inhabiting the building, but we had actually served the Ministry of Labour with the relevant documents to close it down.

**Mr. Chairman:** I understood on the last occasion, or from one of the stakeholders, that there is a possibility or there was an initiative to have your own building acquired, or some land, could you update us on what is the status? Have you all acquired the land?

**Mrs. Sancho:** Well, we were allocated land in Balmain, Couva, two acres, for building of a headquarters. We are now talking to the land management—

**Ms. Willis:** Commissioner of State Lands.

**Mrs. Sancho:** —the Commissioner of State Lands, so that they could vest the land with OSHA, and that is the process that is currently ongoing. It is taking a while to—

**Mr. Chairman:** If PS has something to add, like she knows a little more. No?

**Ms. Willis:** Actually it is the same information that the Executive Director would have shared.

**Mr. Chairman:** All right, yes. Yes, sorry, Ms. Ameen.

**Ms. Ameen:** Thank you, Mr. Chairman. Earlier you indicated that the agency has held some consultations, tripartite, and sectoral consultation with a view to putting forward recommendations to amend the Act, and I wanted to ask if you have out of those consultations submission received or the recommendations you have so far, and if you could supply the Committee with those?

**Mrs. Sancho:** The list that Beerens had read out came out of those consultations. We could provide the information.

**Ms. Ameen:** Yes, if you could send it in writing. And my other question was, most of your investigations are triggered by complaints, but certainly before you reach to the stage of having any accident or complaint, you do encourage your employers to be compliant upfront. Do you have a separate department that deals with inspection for this purpose, to certify them or to indicate that they are complaint, they are OSHA complaint, even before a complaint takes place? You would have a list of requirements and so on?

**Mrs. Sancho:** We have a list of requirements, but we do not a separate unit. The same unit that deals with complaints, accidents, the same 16 inspectors, and we have seven Inspector II's as well, they are the same people that would tend to prioritize these.

**Ms. Ameen:** So, what is your rate of inspection? You go to agencies, agencies interested in being compliant, they would have to get a visit, and then you tell them where they are falling short, and then you give them some time to put those things in place. Take a second visit, in terms of the number of inspections you have

pending, and the rate of investigation.

**Dr. Dhanraj:** Currently, we have a target of 10 inspections per inspector per month, and we have a target of four inspections per inspector too per month, which bring us to around 154 per month of inspections that we do coming out of those complaints. We have a plan in place to start doing proactive inspections. So, we are currently developing a list of the high-risk agencies and industrial establishments, so that we could determine where we go first, second, third, just so that we could use the resources more effectively. So, that is in train at the moment.

**Ms.Ameen:** So, with your current shortage of inspectors, have you been able to touch those?

**Mrs. Sancho:** Not really. Because of the fact that we had put out this advertisement telling people to report more, our work has increased exponentially. So, we have to deal with this influx, but we have a duty first to those who report rather than going to look for new work. So, that has really swamped us a bit in terms of the influx that has now started coming in.

**Mr. Chairman:** Thank you very much. At this time I would like to thank—I think we reached—this has been a very informative session, which I appreciate very much. I want to thank all persons who participated in this hearing this morning. I hope that the listening and viewing public have been enlightened by what has been exchanged between the Committee and you members, stakeholders. The stakeholders also would have benefited from what you would have clarified, enlightened and informed.

My take on what I perceive as the critical situation with this organization, is a lack of resources in every aspect of it, in terms of the monetizing the organization, in terms of the human capital required to do it, the sheer volume, in terms even in the physical structure, in terms of having a house, being housed, a

headquarters. And these are serious impediments. Our reports certainly will reflect, yes, in our deliberations, and I would like to thank the agency and the authority for your level of efficiency of achieving whatever, 47 per cent, you said, at this point in time. But with such limited and challenged resources, I think you are doing a sufficiently encouraging execution of your mandates, and I hope that coming from this we would be able to add our voice, add some sort of impetus in bringing it closer to a level of efficiency and resource that would make this be able to execute what is a critical area for this organization being in our society, in which, certainly would help in the productivity and reduce the loss of man hours through these issue.

So, in closing, I would like to ask the acting PS to give her closing remark. I am not going to stick you to two minutes, you can take three minutes, and then I would ask, again, Mr. Madray, and Dr. Dhanraj as well. So, please, PS.

**Ms. Willis:** Thank you, Chair, and members. In closing, I would just like to say thank you for the opportunity presented this morning in terms of providing the information and providing that clarification which the Committee sought. We at the Ministry, we recognized the impediments, which you would have outlined, facing the agency, and were committed to addressing those in the shortest possible time. As I indicated, we would look to seek to increase the number of inspectors on the establishment of the agency so they can effectively address the implementation of the OSH Act. Again, thank you.

**Mr. Chairman:** You are welcome. Thank you very much. You are pardoned with the \$2,000, eh. *[Laughter]* The Ministry of Health.

**Mr. Madray:** The Ministry of Health will continue to work with the OSH agency to ensure that we meet our obligations, and that we fully support the agency in its obligations. Thank you very much.

**Mr. Chairman:** You were keenly efficient. Thank you very much, Deputy PS.

**Mr. De Freitas:** He could be presiding officer.

**Mr. Chairman:** Sorry?

**Mr. De Freitas:** He could be the presiding officer.

**Mr. Chairman:** Yes, he could be the presiding officer. [*Laughter*] Deputy presiding officer.

**Mr. Madray:** No thank you.

**Mr. Chairman:** Yes?

**Dr. Dhanraj:** As a relatively young agency, the OSH agency and authority are still experiencing some growing pains, how we are giving the commitment that we will work steadfastly to really try to close the gaps to make us a world class health and safety organization. And, I just cannot underscore it enough, it is only through stakeholder engagement across Trinidad and Tobago that we could really develop a safety culture that will move us forward into the coming decades, and the only other point is, I mean, it is clear, the data shows that fortune 500 companies, they have a very strong health and safety culture, and we should really try to model that, and adopt learnings from those entities. So, thank you for this opportunity.

**Mr. Chairman:** Thank you all. In closing, I have a few announcements that I would like to make. The public is advised that the Committee's report on its enquiry into the efficiency and the effectiveness of the Statutory Authorities Service Commission was recently presented to the Houses of Parliament, and will be available for review on the Parliament's website, that is [www.ttparliament.org](http://www.ttparliament.org). Some of the issues addressed in the report are as follows:

1. The relevance of the Statutory Authorities Service Commission;
2. The archaic record management systems that are being utilized by the Commission;

3. the vacancies within the municipal police service;
4. the delays in the reporting of disciplinary matters involving staff assigned to the Children's Homes;
5. the ability of the commission to exercise effective oversight of entities such as the NLCB and the Children's Homes.

Again, I would like to thank you for your active participation and enlightenment for the public and for our purposes in helping to make this a more productive and efficient society. You know, we all have a role to play, and if we all do our tasks, certainly when it is put together, I believe it will bear fruits for us, and we will live in a much more productive, healthy and safe working environment in the country. This session was dealt with the public service. I guess at another time we would probably look into the private enterprise. All right? And, again, thank you very much. And this session is now adjourned. Thank you.

**11.54 a.m.:** *Meeting adjourned.*