

HOUSE OF REPRESENTATIVES

Monday, April 09, 2018

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

**LEAVE OF ABSENCE**

Madam Speaker: Hon. Members, the hon. Maxie Cuffie, MP, Member for La Horquetta/Talparo, has requested leave of absence from sittings of the House for the month of April 2018. And Mr. Prakash Ramadhar, MP, Member for St. Augustine, has requested leave of absence from today's sitting of the House. The leave which the Members seek is granted.

PAPERS LAID

1. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Mayor's Fund of the San Fernando City Corporation for the year ended September 30, 2016. [*The Minister of Finance (Hon. Colm Imbert)*]
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Chaguaramas Development Authority for the year ended September 30, 2014. [*Hon. C. Imbert*]
Papers 1 and 2 to be referred to the Public Accounts Committee.
3. Consolidated Audited Financial Statements of First Citizens Bank Limited and its Subsidiaries for the financial year ended September 30, 2017. [*Hon. C. Imbert*]
To be referred to the Public Accounts (Enterprises) Committee.
4. Thirtieth Annual Report of the Integrity Commission of Trinidad and Tobago for the year 2017. [*The Deputy Speaker (Mr. Esmond Forde)*]

UNREVISED

5. The Statement of the Attorney General related to the activities in Trinidad and Tobago of Cambridge Analytica, Aggregate IQ (AIQ) and the Strategic Communication Laboratories (SCL) Group and their affiliate companies, together with a compilation of relevant Documentation and Materials. [*The Minister of Planning and Development (Hon. Camille Robinson-Regis)*]

Cambridge Analytica, Aggregate IQ and Strategic Communication Laboratories
The Minister of Planning and Development (Hon. Camille Robinson-Regis): I beg to move that Paper No. 5 be referred to the Joint Select Committee on National Security for its consideration and report by July 31, 2018. [*Desk thumping*]

Question put and agreed to.

**JOINT SELECT COMMITTEE REPORT
(Presentation)**

Anti-Terrorism Bill, 2018

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. I have the honour to present the Interim Report of the Joint Select Committee on the Anti-Terrorism (Amdt.) Bill, 2018.

URGENT QUESTIONS

**Sexual Harassment in Workplace
(Government's Policy for)**

Mr. Rudranath Indarsingh (Couva South): Thank you, Madam Speaker. To the Minister of Labour and Small Enterprise Development: Could the Minister inform this House whether the Government has a policy on sexual harassment in the workplace?

The Minister of Labour and Small Enterprise Development (Sen. The Hon. Jennifer Baptiste-Primus): Thank you very much, Madam Speaker, for affording me the opportunity to respond to the Member for Couva South. Madam President—

Hon. Members: Speaker, Speaker.

Sen. The Hon. J. Baptiste-Primus: Madam Speaker, I am awfully sorry. Madam Speaker, while there is not yet an official policy in place, I am pleased to inform this House that at the Ministry of Labour and Small Enterprise Development, we are actively engaged in developing a national policy that is being guided by the Caricom model law on sexual harassment, the Equal Opportunity Commission guidelines on sexual harassment that was launched recently and at which I delivered the feature address, also the International Labour Organization Standards, and case law. That draft policy is expected to be completed within the next few months.

Madam Speaker: Supplemental, Member for Couva South.

Mr. Padarath: Central.

Mrs. Robinson-Regis: Member for Princes Town, excuse me?

Madam Speaker: I would like to remind all Members of the provisions of Standing Order 53. I will not tolerate any shouting across the room. Member for Couva South, supplemental. [*Desk thumping*]

Mr. Indarsingh: Thank you very much, Madam Speaker. Given what you have just stated, Minister, could the Minister inform this House if you, or any official of the Ministry of Labour and Small Enterprise Development, offered any advice as it relates to a recent terms of settlement involving a former employee of the Ministry of Sport and a former Minister of Sport and Youth Affairs? [*Desk thumping*]

Madam Speaker: I would not allow that as a supplemental question arising out of the question. Member for Couva South.

Ms. Ramdial: Couva North, Madam Speaker. Thank you. Minister—

Mrs. Robinson-Regis: No—

Madam Speaker: Okay, Members. This is Urgent Questions. The original person who has asked the question has the right to utilize their option—exhaust their option first. Member for Couva South.

Mr. Indarsingh: Thank you, again, Madam Speaker. The Minister of Labour and Small Enterprise Development, again, has an important relationship with the Industrial Court of Trinidad and Tobago in relation to terms of settlement—

Madam Speaker: Member, you have 15 seconds.

Mr. Indarsingh: Madam Minister, could you inform this House if you are aware of taxpayers' moneys being used in any terms of settlement as it relates to a former employee of the Ministry of Sport and Youth Affairs and the former Minister of Sport and Youth Affairs? [*Desk thumping*]

Madam Speaker: I will not allow that as a supplemental question. Member for Couva North.

Ms. Ramdial: Thank you. Minister, in the meantime while we wait for the policy on sexual harassment to be rolled out, what protection do the women in the respective Ministries have from these errant Ministers? [*Desk thumping*]

Madam Speaker: Member, in the form of which your question has been asked, I have ruled it out of order. Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. Madam Minister, having great regard to your wonderful speech on these fora dealing with sexual harassment, could you indicate whether you are in support of nondisclosure agreements that seek to hide pertinent facts involving public officials [*Desk thumping*] on allegations of sexual harassment?

Madam Speaker: Minister of Labour and Small Enterprise Development.

Sen. The Hon. J. Baptiste-Primus: Thank you very much, Madam Speaker. As a Minister of Government I am guided by government policy regarding any activity surrounding governance in Trinidad and Tobago. [*Desk thumping*]

**Vote Taken at OAS on Dominica
(Official Date of Apology)**

Mr. Barry Padarath (*Princes Town*): Thank you, Madam Speaker. To the Minister of Foreign and Caricom Affairs: In light of the diplomatic impasse surrounding Trinidad and Tobago's vote taken at the Organization of American States against Dominica, could the Minister indicate on what date did the Ministry issue a diplomatic note officially apologizing to the Government of Dominica?

Madam Speaker: The Minister of Foreign and Caricom Affairs. [*Desk thumping*]

The Minister of Foreign and Caricom Affairs and Minister in the Ministry of National Security (Sen. The Hon. Dennis Moses): Thank you very much—

Dr. Gopeesingh: Madam Speaker, the Member for Laventille West is overpowering with that.

Madam Speaker: Kindly have a seat, please.

Dr. Gopeesingh: Behave “yuhself, nah man”.

Madam Speaker: Hon. Members, I understand that there will be a lot of bantering, but, please, remember this is Parliament. Your behaviour must be parliamentary and certainly you must comply with the Standing Orders. I hope I would not have to, at least, direct us again, accordingly. Minister of Foreign and Caricom Affairs.

Sen. The Hon. D. Moses: Once again, thank you very much, Madam Speaker. On the 1st of April of this year I verbally conveyed and offered most sincere apologies from Trinidad and Tobago to Dominica through the Minister of Foreign Affairs of—[*Crosstalk*]

Madam Speaker: Minister—

Sen. The Hon. D. Moses: My apologies, please, once more.

Madam Speaker: I would ask us to please, again—and this is the last warning—to accord ourselves in a proper manner. Minister of Foreign and Caricom Affairs.

Sen. The Hon. D. Moses: With your permission, Madam Speaker—thanks again, and I will repeat what I said. On the 1st of April of this year, 2018, I verbally offered and conveyed to the Minister of Foreign Affairs of Dominica the most sincere apologies from Trinidad and Tobago to Dominica. Thank you very much.

Madam Speaker: Supplemental, Member for Princes Town.

Mr. Padarath: Thank you, Madam. Madam, by the Minister's own omission, we have diplomatic faux pas part two. Madam, as a former employee of the foreign service, I want to ask the Minister: Could the Minister say if it is not common established diplomatic practice that communication of this nature go through a diplomatic note that is established worldwide? [*Desk thumping*]

Madam Speaker: The Minister of Foreign and Caricom Affairs.

Sen. The Hon. D. Moses: Many thanks, again. In the best tradition of the close, warm and fraternal ties that exist between our countries, that is Dominica and Trinidad and Tobago, my interaction with the Minister of Foreign Affairs— [*Interruption*] My interaction with the Foreign Affairs Minister of Dominica was such that no further communiqué was deemed necessary. Many thanks to you. [*Desk thumping*]

Madam Speaker: Member for Princes Town.

Mr. Padarath: Thank you, Madam. Madam, again, having the Minister repeated his same answer, I will repeat the question to the hon. Minister—

Madam Speaker: Member for Princes Town, the question has been answered. You are entitled to ask another question, please.

Mr. Padarath: Madam, to the hon. Minister: At this point, could the hon. Minister say whether or not the hon. Prime Minister has made direct communication to the Prime Minister of Dominica, seeing that there is an absence of an official diplomatic note?

Madam Speaker: Minister of Foreign and Caricom Affairs.

Sen. The Hon. D. Moses: Many thanks to you, Madam Speaker. There is ongoing communication between Heads of State of Caricom Member States. Many thanks to you.

Madam Speaker: Member for Naparima.

Mr. Charles: Thank you, Madam Speaker. Is the Minister aware that—

Madam Speaker: Member, this is question three. Only two questions are allowed under Urgent Questions.

Mr. Charles: Thank you very much for your advice.

**Persons With Disabilities
(Training Police to Handle)**

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker: To the Minister of National Security: Can the Minister state what measures are in place to properly train police officers to deal with persons with disabilities or mentally ill citizens?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker. Madam Speaker, members of the Trinidad and Tobago Police Service, through the police service academy induction training programme, offer training to recruits with respect to treating with mentally ill persons. This is facilitated through the administration of the behavioural science course which contains 17 modules on a number of contemporary, societal and ethical topics. Specifically, module number 15 covers dealing with mentally ill and special needs individuals.

It should also be noted that Standing Order No. 33 of the Trinidad and Tobago Police Service defines who is considered to be a mentally ill individual as well as the person designated to deal with such individuals. It also provides guidelines for the handling of mentally ill persons who have breached the law and have been detained into police custody, and dictates the process to be adopted by police officers for such. Furthermore, the Standing Order states when and how a police officer will render assistance for the apprehension and safe conveyance of mentally ill persons and persons with disabilities.

With respect to mentally ill persons, as to psychiatric hospital, medical institutions designated for handling such persons, or to a police station, notwithstanding the training guidelines provided, in the light of recent reports the Trinidad and Tobago Police Service is in the process of reviewing its training programme to better treat with persons of mentally ill persuasions or disabilities. The Police Academy has instituted course and programme committees to explore possible additional training courses and programmes that could be offered to police officers and stakeholders by the academy.

The academy has also initiated preliminary discussions with a number of stakeholders and experts in the fields of law enforcement, society, mental illness and people with disabilities, with the intention of holding a round-table discussion on ways to improve its training programme. Among the priority areas is design of a course to be offered as developmental training. Those are people who have gone through, not recruits, but police officers within the service together with stakeholders to better equip them.

Mr. Lee: Madam Speaker, Standing Order 27(a), please.

Madam Speaker: Hon. Minister, your speaking time is now spent. Yes, Member for Pointe-a-Pierre, you have a point of order that you wish to raise?

Mr. Lee: I rose on a point of order, 27(a), but you ruled already.

Madam Speaker: Supplemental, Member for Naparima.

Mr. Charles: Thank you. Could the Minister then indicate why it is reported that a senior police officer said that the police in Trinidad and Tobago, the TTPS, are not properly trained to handle mentally ill and persons with disabilities?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, the first question speaks to what measures are in place, and I answered that question as measures that are in place. As to the pronouncement of a senior police officer, I cannot say why the police officer will say that, but my report is from the Police Commissioner, and I so speak.

Madam Speaker: Supplemental.

Mr. Charles: Then, Madam Speaker, that begs the follow-up question: Is the Minister satisfied that the systems and procedures he elaborated on are being implemented as we speak, and are they being monitored?

Madam Speaker: Member, one question. Which question it is?

Mr. Charles: Are they being monitored?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, I am sure based on the management of the police service, the Commissioner of Police would monitor anything that is implemented and look for improvement as they go along.

**Trinidad and Tobago Spirit
(Status of Repairs)**

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker. To the Minister of Works and Transport: Could the Minister inform this House when all

the repairs and services to the Trinidad and Tobago *Spirit* will be completed so as to render the vessel seaworthy?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. Madam Speaker, all the work has been completed and the vessel is currently undergoing sea trials. Any issue which may arise will be addressed. It is expected that on completion the vessel will be returning to the service.

Madam Speaker: Supplemental, Member for Oropouche East.

Dr. Moonilal: Thank you very much. Minister, in light of that answer, could you indicate when the arrangements with LIAT that has cost so far in excess of \$8 million will come to an end?

Madam Speaker: I will not allow that as a supplemental question. Member for Cumuto/Manzanilla.

Mrs. Newallo-Hosein: Thank you. Hon. Minister, can you indicate whether the disrepair of this boat was a fact contributed by its usage traversing between Trinidad and Tobago?

Madam Speaker: Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Madam Speaker, I do not understand the question—

Mrs. Newallo-Hosein: Let me repeat it. The disrepair of the boat, the problems that are existing, is it as a result of the boat having to go between Trinidad and Tobago that has contributed it, because it is not seaworthy?

Madam Speaker: Minister of Works and Transport.

Sen. The Hon. R. Sinanan: Madam Speaker, this vessel was purchased for the journey between Trinidad and Tobago, so obviously, if the vessel is working between Trinidad and Tobago, it would contribute to the condition that it is in.

**Nationals Detained by Guardia Nacional
(Status of)**

Mr. Rudranath Indarsingh (*Couva South*): Thank you, Madam Speaker. To the Minister of National Security: Given recent events which have resulted in three nationals being detained by officers attached to Venezuela's Guardia Nacional, could the Minister inform this House of the current status of these nationals?

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, the latest information I have on this situation is that three nationals are still in Venezuela in Tucupita. They were scheduled to appear in court today. As of now I do not have the outcome, whether the matter has been completed. But they are still in Tucupita, Venezuela, as of now.

Madam Speaker: Supplemental question, Member for Couva South.

Mr. Indarsingh: Could you inform this House, Mr. Minister, if you are pursuing any form of diplomatic initiatives to resolve this particular issue as speedily as possible?

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, any diplomatic initiatives would be done through the Ministry of Foreign and Caricom Affairs and not through the Ministry of National Security.

Madam Speaker: Member for Naparima, supplemental.

Mr. Charles: Could the Minister advise what action he intends to take if, as reported, the TT fishermen were detained by the Guardia Nacional in Trinidad and Tobago territorial waters?

Hon. Member: Good question. [*Desk thumping*]

Madam Speaker: Minister of National Security.

Hon. Maj. Gen. E. Dillon: Madam Speaker, the matter is before the court of Venezuela right now. At the same time the Trinidad and Tobago Defence Force are doing their investigation and based on the report, then appropriate actions will be taken.

Madam Speaker: Hon. Member, the time allotted for Urgent Questions is now spent.

ANSWERS TO QUESTIONS

The Minister of Planning and Development (Hon. Camille Robinson-Regis): Thank you very kindly, Madam Speaker. Madam Speaker, there are 17 questions for Oral Answer. We will be answering 13 of those. The questions that we are asking to be deferred for two weeks are Questions Nos. 145, 168, 180 and 187. Thank you, Madam Speaker. Madam Speaker, there are no questions for written answer.

ORAL ANSWERS TO QUESTIONS

The following questions stood on the Order Paper:

Repairs/Service of Police Vehicles (Reasons for Non-Contractual Agreements)

- 145.** Could the hon. Minister of National Security provide the reasons the Trinidad and Tobago Police Service did not provide the contractual agreements for repairs and servicing of police vehicles totalling \$564,882.25, as stated in the Report of the Auditor General on the Public Accounts of the Republic of Trinidad and Tobago for the financial year 2016? [*Dr. L. Bodoë*]

**Cancer Society
(Non-Payment of Subvention)**

- 168.** With regard to the non-payment of the annual subvention to the Cancer Society for the past three (3) years, could the hon. Minister of Health state the reasons for the non-payment and the expected date that subvention will be issued? [*Mr. D. Lee*]

**Indian Trail Road
(Commencement Date for Repairs)**

- 180.** Subsequent to the Ministry's tour of the Couva South Constituency on August 05, 2017, could the hon. Minister of Works and Transport state the expected commencement date for repairs to the 14 landslips along the Indian Trail Road? [*Mr. R. Indarsingh*]

**San Francique and Pluck Roads
(Commencement Date for Repairs)**

- 187.** In relation to the four landslips along the San Francique Road and Pluck Road, could the hon. Minister of Works and Transport state the expected commencement date for repairs and the estimated time frame for completion? [*Mrs. V. Gayadeen-Gopeesingh*]
- Questions, by leave, deferred.*

**Private Construction Companies
(Total Amount Owed to)**

- 126. Mr. Rudranath Indarsingh** (*Couva South*) asked the hon. Minister of Finance:
- Could the Minister inform this House the total amount owed to private construction companies?

The Minister of Finance (Hon. Colm Imbert): Madam Speaker, I would ask the questioner to give further and better particulars, because when one looks at the

question, it does not give a time frame, nor does it indicate whether it is Government Ministries, statutory authorities or state enterprises. And by way of example, Madam Speaker, if, for example, I were asked to ask Petrotrin, that would take some time for Petrotrin to indicate the total amount owed to private construction companies; similarly, the National Gas Corporation.

So I would ask the Member for Couva South, please give better and further particulars as to exactly what the hon. Member is speaking about; whether it is Government Departments, statutory authorities or state enterprises, or all of them, and the time frame. Because it changes every day as releases are made, and moneys are paid to private construction companies.

Madam Speaker: Supplemental question, Member for Couva South.

Mr. Indarsingh: Madam Speaker, taking into consideration the run-up of the Minister of Finance, I want to place on record that as of now—and also it was not the original question that I asked.

Madam Speaker: Member for Couva—

Hon. Member: Ahh. [*Desk thumping*]

Madam Speaker: Member for Couva South, do you have a supplemental question?

Mr. Indarsingh: All I am asking, Madam Speaker, is the—

Madam Speaker: Do you have a supplemental question?

Mr. Indarsingh: The Minister asked for further clarification and I demand to be afforded the right to provide the explanation.

Madam Speaker: Member for Couva North.

**Passenger and Cargo Service
(Urgent Steps to Ensure)**

141. Ms. Ramona Ramdial (*Couva North*) asked the hon. Minister of Works and Transport:

Could the Minister indicate the urgent steps being taken in the short term to ensure a more reliable passenger and cargo service between Trinidad and Tobago?

The Minister of Works and Transport (Sen. The Hon. Rohan Sinanan): Thank you, Madam Speaker. Madam Speaker, the Port Authority of Trinidad and Tobago has taken the following steps to ensure a more reliable service between Trinidad and Tobago in the short term:

One, the Passenger Vessels:

The information below outlines the status of the vessels and the routine maintenance schedule that is implemented for the many different areas of the vessels. These time frames may not be rigid but form the basis for checking and inspecting, repairing and servicing all of the areas of the vessel.

A. The *T & T Spirit*: The *T & T Spirit* has been conducting sea trials which are mandatory tests after dry docking before the vessel can be put back into service transporting passengers.

The Main Engine: The rebuilding of two of the four main engines that sustained catastrophic damage was completed at the end of February and the initial sea trial was carried out on March 2nd. There have been three additional sea trials in order to put the vessel under full-load operation so that any engine or equipment failure can be identified and dealt with. The vessel was run at full rpm and the OEM representatives were satisfied with the performance of all four engines.

Electronics: There have been failures to the aged electronic equipment with the purchase of a new radar that has been installed. There continues to be issues that arise and dealt with as they arise. DNVGL has been on the vessel and are cooperating with the Port Authority to get the vessel back in service. The warranty surveyor has inspected the vessel and has returned a very favourable report and has recommended the reinstatement of full insurance coverage. The *Spirit* is expected to undergo final sea trials, after which the vessel will return to service pending DNVGL and MSD certification.

B. Planned maintenance: There is a planned maintenance system that governs the scheduling of maintenance work on the vessel that is based on the engine running hours. This system, together with the OEM-stipulated maintenance routine is incorporated to identify and treat with specific areas of the vessel in specific time frames.

Listed hereunder is the outline of the planned routine maintenance schedule for the *T&T Spirit*. These areas are broken down further into individual components that must each be inspected, serviced and repaired:

WEEKLY	QUARTERLY	ANNUALLY
Accommodation	Safety Equipment	Dry Docking
Superstructure	Auxiliary Machinery	Hull repairs
Safety Equipment General		Jets
Navigation Equipment		Main engines
Electrical		Safety equipment

C. The *T&T Express*: The *T&T Express* has not been dry docked since March 2015. The vessel is under repair status with DNVGL and MM&M Insurance Company Limited, with only total loss coverage, and is berthed at the Port of Port of Spain.

The scope of works for the *Express* includes a complete overhaul of the four main engines and four generators that are all well over their service time. There is a recommendation to renew all of the electronic systems and equipment on the vessel as they will continue to deteriorate causing untimely problems with the sailing schedule. The proposed plan is to have all the mechanical and electrical repairs done at the dock yard before putting the vessel on dry dock for hull and water jet works only.

D. The *Cabo Star* - Dedicated cargo vessel: The *MV Cabo Star* was leased for one year in the first instance to meet the cargo requirement to and from Tobago. This is the mode of transport for cargo—trucks, vans, flat bed. This contract was recently extended for a further six months. The owners are responsible for all maintenance work on the vessel. Routine works are carried out on the *MV Cabo Star* on Saturdays as is required. I thank you. [*Desk thumping*]

2.00 p.m.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you very much, Minister. Given your answer which would just suggest that nothing is working, could you indicate when the *Galleons Passage* will arrive in Trinidad and Tobago waters to pick up the slack?

Madam Speaker: I will not allow that as a supplemental question. Member for Caroni East.

Dr. Gopeesingh: Could the Minister indicate why have you decided to renew the contract for the *Cabo Star* for six months when the original contract was \$5 million more per day on the *Cabo Star* according to Bridgeman?

Madam Speaker: I will not allow that as a supplemental question. Member for Couva North. [*Crosstalk*]

Ms. Ramdial: Thank you, Madam Speaker. Minister, has there been any findings

on the sabotage allegations on the *Cabo Star*?

Hon. Member: Yeah.

Madam Speaker: I will not allow that as a supplemental question. Member for Oropouche East. [*Crosstalk*]

Dr. Moonilal: Mr. Minister of Works and Transport, could you indicate when the Mouttet Report would be made public?

Madam Speaker: I will not allow that as a supplemental question. Member for Pointe-a-Pierre.

Mr. Lee: Thank you. Supplemental to the Minister of Works and Transport. Based on his entire dissertation of the maintenance issues and the process, could the Minister state why is he now calling on an audit, an investigation into the \$135 million that were spent on the dry docking of the *T&T Spirit*?

Madam Speaker: I will not allow that as a supplemental question. Member for Naparima.

Mr. Charles: Would the Minister agree that the fault for all these unscheduled maintenance and the suffering the people in Tobago are experiencing, that it is a fault of managerial planning?

Madam Speaker: I will not allow that as a supplemental question.

**Trinidad Hilton
(Generation of Foreign Exchange)**

150. Mr. Barry Padarath (*Princes Town*) asked the hon. Minister of Trade and Industry:

Could the Minister state the foreign exchange generated by the Trinidad Hilton in 2017?

The Minister of Trade and Industry (Sen. The Hon. Paula Gopee-Scoon):
Thank you, Madam Speaker. The Hilton Trinidad and Conference Centre has

advised that it earned approximately US \$17.5 million in foreign exchange in 2017.

Madam Speaker: Supplemental question, Member for Princes Town.

Mr. Padarath: Thank you, Madam. Madam, could the hon. Minister indicate if there is any proposal at this time before Government with respect to selling shares of Trinidad Hilton?

Madam Speaker: I will not allow that as a supplemental question.

**Apex, Fyzabad
(Details of Old Hilo Site)**

161. Dr. Lackram Bodoë (*Fyzabad*) asked the hon. Minister of Public Administration and Communications:

Could the Minister state:

- (a) whether the refurbished building located at the old Hilo site in Apex, Fyzabad is owned by the State; and
- (b) if the answer to part (a) is in the affirmative, state the Ministry's plans for the utilization of this abandoned building?

Madam Speaker: Minister of Public Administration and Communications. [*Crosstalk*] Minister of Public Administration and Communications. [*Crosstalk*] Member for Princes Town, Member for Caroni East. Minister of Public Administration and Communications.

The Minister of Public Administration and Communications (Hon. Marlene Mc Donald): [*Desk thumping*] Thank you, Madam Speaker. Madam Speaker, records at the Ministry of Education indicate that there is an unfinished structure on the property ownership of which is unknown at this time. The site in question is under the management of the Palo Seco Agricultural Enterprises Limited, a state-owned enterprise providing estate management services for Petrotrin. This

suggests that the property is vested in state-owned Petrotrin.

Madam Speaker, many years ago the Ministry of Education did express an interest in having the property released to it for the establishment of an education office. The Ministry of Education does not have any plans for the use of this building at this point in time. [*Desk thumping*]

Dr. Bodoë: Thank you for your answer, Minister. Could you indicate whether the Government has any intentions of completing the building, in view of the fact you have said it is unfinished.

Hon. M. Mc Donald: Thank you. Thank you, Madam Speaker, but this question would be better posed to the Ministry of Education.

Issuance of Competitive Bid Round Hydrocarbon Prospects (Details of)

167. Mr. David Lee (*Pointe-a-Pierre*) asked the hon. Minister of Energy and Energy Industries:

Could the Minister state:

- (a) whether the Ministry plans to issue a competitive bid round for hydrocarbon prospects; and
- (b) if the answer to part (a) is in the affirmative, state whether the competitive bid rounds were completed?

The Minister of Energy and Energy Industries (Sen. The Hon. Franklin Khan): Thank you very much, Madam Speaker. Madam Speaker, the Ministry of Energy and Energy Industries plans to offer acreage for competitive bidding on a phase basis in the shallow water and onshore areas in 2018, and in the deeper waters or the deep water, in particular areas in 2019. Five blocks have been identified in the shallow water and they will be made available in the second quarter of 2018. That is the second calendar quarter. These are: NCMA 2, NCMA

3. Those two blocks are situated in the north coast close to the Dragon Gas Field. Blocks 1B situated in the Gulf of Paria, and blocks UC and blocks 4C situated off the east coast. One block will be made available onshore and that is the Charuma Block which is in the Rio Claro/Biche area.

**Drowning Incident at Maracas Bay
(Details of Lifeguard Service)**

181. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

With regard to the drowning incident involving a senior citizen on February 12th, 2018 at Maracas Bay, could the Minister state:

- (a) the number of lifeguards assigned to work on the beach on that date; and
- (b) the number of lifeguards who reported for duty on that date?

The Minister National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker. Madam Speaker, there were 19 lifeguards assigned to work at Maracas Bay on February the 12th, 2018. Twelve lifeguards reported for duty on that date.

**St. Augustine Nurseries Housing
(Details of)**

182. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Housing and Urban Development:

With regard to the construction of Housing Development Corporation housing at the St. Augustine nurseries, could the Minister state whether statutory approvals have been granted from:

- a) the Environmental Management Authority;
- b) the Town and Country Planning Division; and
- c) the Regional Corporation?

The Minister in the Ministry of Housing and Urban Development (Hon. Darryl Smith): Thank you, Madam Speaker. [*Desk thumping*] Part (a), the Environmental Management Authority: no determination to the application for the Certificate of Environmental Clearance (CEC) has yet been received from the Environmental Management Authority to date.

Part (b), the Town and Country Planning Division: the HDC received outline planning permission from the Town and Country Planning Division, Reference Number T2C 1321, 2017; date, October 12th, 2017, granting approval to use 7.3 hectares for multifamily resident use.

Part (c), the Regional Corporation: since the project is still in the development stage, the final application has not yet been received by Town and Country Planning Division, hence no final approval has been granted by the Town and Country Planning Division. As such, an application to the regional corporation has not yet been made.

Dr. Moonilal: Thank you very much, to the Minister in the Ministry of Housing and Urban Development. Would the Minister, notwithstanding he is extremely new to the portfolio, have any idea of when the construction would begin at this site given your answer earlier on the various approvals?

Hon. D. Smith: Thank you, Madam Speaker. This information could be given in a future date with regard to the date set.

**Sandals International
(Strict Confidentiality Provisions)**

183. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Tourism:

Given the response to House of Representatives Question No. 32 on January 26th, 2018, could the Minister indicate whether Sandals International has

broken the strict confidentiality provisions in the non-binding agreement by disclosing information relating to its preconditions for investment?

The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. *[Interruption]* Madam Speaker, the answer to this question is no. Sandals International did not breach the confidentiality provisions of the MOU and, in fact, we would like to thank Sandals Resort International for the very candid way and manner within which they dealt with the media and the information that they provided to the public that was followed up by the Government of Trinidad and Tobago. *[Desk thumping]*

Madam Speaker: Supplemental, Member for Oropouche East.

Dr. Moonilal: Thank you very much. Madam Speaker, you must forgive me because I am not sure of who is who today. But to the Member of Port of Spain North/St. Ann's West, are you aware that in a response to a question in this House, the Minister of Tourism indicated that the Ministry could not give information because of a strict confidentiality provision and Sandals gave that information? *[Desk thumping]*

Hon. S. Young: Madam Speaker, in answering the question the answer is: the information that Sandals provided—and I assume it was in a television interview unless Sandals has provided information directly to the Member for Oropouche East. So what we know in the public domain has not breached any of the confidentiality provisions. This Government is very cautious in respecting contractual provisions, terms and conditions, and has no intention of breaching any such provision in our negotiation deal and MOU with Sandals Resorts International.

Dr. Moonilal: Thank you very much. Is the Minister saying that the Government

deliberately and wilfully withheld information on the Sandals project in answering a question in the Parliament? [*Desk thumping*]

Hon. S. Young: The answer is no. The Government has not withheld any information from the public, and at the appropriate time has always provided all the information it can with respect to this deal, transaction and others, unlike what we saw with the curtailment issues dealing with energy between 2010 and 2015, or the OAS contract.

**Community-Based Environmental Protection and Enhancement Programme
(Litigation by Unpaid Contractors)**

184. Dr. Roodal Moonilal (*Oropouche East*) asked the hon. Minister of Rural Development and Local Government:

Could the Minister indicate the policy approach of the Community-Based Environmental Protection and Enhancement Programme to treat with the increase in litigation by unpaid contractors?

The Minister of Rural Development and Local Government (Sen. The Hon. Kazim Hosein): Thank you very much, Madam Speaker, and thanks to the hon. Member for the question. The Ministry of Rural Development and Local Government is committed to fostering a healthy working relationship between the citizens of Trinidad and Tobago, whether they are contractors, employees, or members of the public, and the Ministry. Over the past few months, the Community-Based Environmental Protection and Enhancement Programme, commonly known as CEPEP, has been visited with a number of claims filed in the High Court by contractors seeking payments for works alleged to have been done on behalf of CEPEP during the period 2010—2015.

At the onset, let me state categorically in a direct answer to the question of the hon. Member that the policy approach of CEPEP in relation to these claims

and, more in particular the policy of the Ministry to its interaction with its contractors, is firstly to act in accordance with the law. CEPEP has been given a directive that the work has been done, contractors are entitled to be paid, but we must understand before any claims are paid there is a process that must be followed. These claims amount to \$148 million. The policy of CEPEP, under the guidance as Minister, is that where these claims are made the first step to be taken is to seek, verify the legitimacy of the claims. Lawyers are engaged to first ensure that the position of the company and, by extension, taxpayers, are protected, safeguard, and not compromised. Every attempt is being made to treat with contractors in the fairest manner possible with claims filed in court, and respect to the claims that are not yet subject to court proceedings.

Unfortunately, CEPEP has experienced some difficulty securing the documentary evidence to verify the claims made to process legitimate claims, and to verify claims where there exist some degree of doubt as to whether they are genuine. Steps are now taken to engage contractors so that an amicable position can be arrived at. That is the best interest of the Ministry and the contractors. CEPEP does not wish to expend its limited resources in defending claims that could be settled, and the Ministry and this Government administration will not encourage that. At the same time, most of these contractors are small and medium-sized, and we do not wish for those contractors with limited resources to expend them on court matters where there is no need to.

I want to give the assurance to contractors in particular—because they are persons that the Ministry depends on and will continue to depend upon to execute its mandate to the people of this country—that all claims will be treated fairly, and I want to encourage all contractors that have claims against CEPEP to engage the company and the Ministry, and let us together find a way to resolve these disputes

in the best interest of all involved.

Dr. Moonilal: Thank you very much, Minister. Minister, could you indicate, given your answer, whether CEPEP will engage with the seven contractors who have judgments against CEPEP now? Would you engage with those contractors on a payback schedule for CEPEP to pay contractors, very much like what your Government suggested for Dominica on the waiver?

Sen. The Hon. K. Hosein: Madam Speaker, I want to assure the Member that we will engage with all contractors.

Juvenile Detention Suites (Details of)

186. Mrs. Vidia Gayadeen-Gopeesingh (*Oropouche West*) asked the hon. Minister of National Security:

Could the Minister state:

- (a) the current number of juvenile detention suites in the nine police divisions;
- (b) whether the Ministry has any plans to construct juvenile detention suites for fiscal 2018; and
- (c) the estimated cost of construction, if the answer to (b) is in the affirmative?

The Minister National Security (Hon. Maj. Gen. Edmund Dillon): Thank you, Madam Speaker. Madam Speaker, five of the nine police divisions located throughout Trinidad and Tobago have a total of six operational juvenile detention suites situated in six booking stations, one per station. These police divisions and booking stations are as follows: in South Western Division, they have two booking stations, one at La Brea and one at Oropouche; in Southern Division, you have one at Moruga and one at Gasparillo; in Central Division, there is one at Brasso; in

Northern and North Eastern Division, there is one at Maracas, St. Joseph.

It is anticipated that juvenile detention suites are currently under construction in the following divisions will be completed during the fiscal year 2018. In Port of Spain Division, there is a booking station at Belmont under construction; in the Western Division, there is one at Maraval; and Eastern Division, there is one at Cumuto.

The three juvenile detention suites that are expected to be completed during fiscal 2018 are projected at the cost of \$1,536,000. This is detailed as follows: in police division Port of Spain, Belmont at a cost of \$506,000; in Western Division at Maraval, \$670,000; in Eastern Division at Cumuto, \$360,000; a total \$1,536,000.

Mrs. Gayadeen-Gopeesingh: Hon. Minister, what happens when a minor is detained under suspicion of committing an offence in the division where a juvenile detention centre does not exist?

Hon. Maj. Gen. E. Dillon: Madam Speaker, there are no juvenile centres—
[*Interruption*]

Mrs. Gayadeen-Gopeesingh: Sorry, cell. Detention cell.

Hon. Maj. Gen. E. Dillon: Madam Speaker, in that circumstance the Legal Aid Act kicks in and the Children Act kicks in, together with the Children's Authority.

Mrs. Gayadeen-Gopeesingh: You say then the child or minor is kept in a same cell with an adult under suspicion?

Hon. Maj. Gen. E. Dillon: No, Madam Speaker, that no longer exists.

**University of Trinidad and Tobago
(Details of)**

188. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

With regard to the University of Trinidad and Tobago for the academic years from 2015 to 2018, could the Minister state:

- (a) the number of students enrolled; and
- (b) the number of faculty employed.

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, the University of Trinidad and Tobago has advised that:

(a): Student enrolment is as follows:

For the period 2014 to 2015—7,560 students;

For the period 2015 to 2016—6,910 students;

For the period 2016 to 2017—7,278 students;

For the period 2017 to 2018—7,382 students.

Section (b): number of faculty, academic staff employed:

2014 to 2015—414;

2015 to 2016—416;

2016 to 2017—483; and

2017 to 2018, as of February the 28th—518.

And section three of the question: number of research publications produced: 2015, 39; 2016, 64; 2017, 103; and 2018 as of March 2018, 22.

Thank you very much.

Mr. Karim: Thank you very much, Madam Speaker. Hon. Minister, will you be kind enough to let us have in writing the following to parts (a), (b) and (c). The number of students enrolled by programme; the number of faculty by programmes; and the researchers and the title of the research publications in part (c).

Hon. A. Garcia: Madam Speaker, as soon as my good friend, the Member for Chaguanas East, gives that to me in writing, I would be happy to respond to it.

Thank you very much.

**UTT World University Ranking
(Details of)**

189. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

Given the University of Trinidad and Tobago's announcement that its world university ranking had improved by almost 500 places in the academic year 2017/2018, could the Minister state:

- (a) the name of the University Ranking Body;
- (b) the actual ranking of the UTT in 2015, 2016, 2017 and 2018 according to the university ranking body identified in part (a);
- (c) whether student enrolment is a performance metric used to determine the university's ranking;
- (d) whether faculty to student ratio is a performance metric used to determinate the university's ranking; and
- (e) whether the number of research publications is a performance metric used to determinate the university's ranking?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker, again. Madam Speaker, the University of Trinidad and Tobago has advised that:

- (a) The name of the university ranking body is Webometrics Incorporated.
- (b) The actual ranking of the University of Trinidad and Tobago in 2015, 2016, 2017 and 2018 according to the university ranking body identified in part (a) would be the actual ranking of UTT in 2015, 2016, 2017 and 2018 according to the ranking body is as follows:

In 2015, UTT was placed 8,205 out of over 21,000 universities in the world which placed UTT in the top 40 per cent;

In 2016, UTT was placed 6,812 out of over 23,500 universities which placed within the top 29 per cent;

In 2017, UTT was placed 6,979 out of 24,000 universities which placed UTT within the top 30 per cent;

In 2018, UTT is placed 6,487 out of 27,000 universities which places UTT within the top 25 per cent.

Thank you very much.

Mr. Karim: Thank you very much. Madam Speaker, I do not think the hon. Minister answered a couple parts of the question, parts (c), (d) and (e).

Hon. A. Garcia: Thank you very much, Madam Speaker. Webometrics Incorporated has advised on their website that their methodology has evolved substantially during the last decade, so to use caution when comparing results from different or previous years' editions.

- (c) Whether students enrolment is a performance metric used to determine the university's ranking, the answer: students enrolment is not a performance used to determine the university's ranking;
- (d) The question whether faculty to students ratio is a performance metric used to determine the university's ranking, the answer: the faculty to students ratio is not a performance metric used to determine the university's ranking, but it is an international accreditation metric; and
- (e) Whether the number of research publications is a performance metric used to determine the university's ranking, the answer: the number of research publications is a performance metric used to determine the university's ranking.

Thank you.

Mr. Karim: Thank you very much, Madam Speaker. Could the hon. Minister tell

us a little more about Webometrics? I do not know if I am pronouncing it right.

Hon. A. Garcia: Madam Speaker, Webometrics is also known as Ranking Web of Universities. They use a ranking system for the world's universities and that would involve the volume of the Web contacts and the visibility and impact of the Web publications. Thank you.

**ECCE Centre Dass Trace Enterprise
(Update on)**

190. Mr. Fazal Karim (*Chaguanas East*) asked the hon. Minister of Education:

Further to the response to House of Representatives Question No. 51 on March 3rd, 2017, could the Minister provide an update on the expected opening date for the ECCE Centre at Dass Trace, Enterprise?

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. Madam Speaker, the Egypt Oasis ECC Centre at Dass Trace, Enterprise, is currently 99 per cent completed. The works and the facilities have been substantially completed, however, statutory final approvals from WASA, the Electrical Inspectorate and the regional corporation are outstanding. The project is currently on hold due to non-payment of invoices and the current High Court matter with the contractor.

The Ministry of Education has been able to identify funds to meet outstanding payments, and some \$4.2 million of the debt has been recently paid. A further release of funds is awaited in order to meet the balance of approximately TT \$2 million. Once these payments are made, the Ministry of Education will be in a position to schedule the remaining contract following which I will be able to provide the House with a tentative date for the opening of the facility. Thank you.

WHISTLEBLOWER PROTECTION BILL, 2018

Bill to combat corruption and other wrongdoings by encouraging and facilitating disclosures of improper conduct in the public and private sector, to protect persons making those disclosures from detrimental action, to regulate the receiving, investigating or otherwise dealing with disclosures of improper conduct and to provide for other matters connected therewith [*The Attorney General*]; read the first time.

**ADMINISTRATION OF JUSTICE
(DEOXYRIBONUCLEIC ACID) REGULATIONS, 2018**

Madam Speaker: Attorney General.

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker.

Madam Speaker, I beg to move the following Motion standing in my name:

Whereas it is provided by section 34(1) of the Administration of Justice (Deoxyribonucleic Acid) Act, 2012 (hereinafter referred to as—
[*Interruption*]

JOINT SELECT COMMITTEE

(Extension of Time)

Anti-Terrorism (Amdt.) Bill, 2018

Madam Speaker: Leader of the House.

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you very kindly, Madam Speaker. Madam Speaker, having regard to the Interim Report of the Joint Select Committee appointed to consider and report on the Anti-Terrorism (Amdt.) Bill, 2018, I beg to move that the committee be allowed an extension of three months in order to complete its work and submit a final report by June 29, 2018. Thank you.

Question put and agreed to.

**JOINT SELECT COMMITTEES
(CHANGE OF MEMBERSHIP)**

The Minister of Planning and Development (Hon. Camille Robinson-Regis):

Thank you very kindly, Madam Speaker. Madam Speaker, whereas it has become necessary to make appointments to joint select committees, I beg to move that this House agree to the following appointments:

Mrs. Vidya Gayadeen-Gopeesingh in lieu of Mr. Prakash Ramadhar on the Joint Select Committee on Finance and Legal Affairs;

Mr. Barry Padarath in lieu of Mrs. Vidya Gayadeen-Gopeesingh on the Joint Select Committee on Human Rights, Equality and Diversity; and

Dr. Roodal Moonilal in lieu of Mr. Prakash Ramadhar on the Joint Select Committee on National Security.

Question put and agreed to.

2.30 p.m.

**ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID)
REGULATIONS, 2018**

The Attorney General (Hon. Faris Al-Rawi): Thank you, Madam Speaker. Madam Speaker, I beg to move the following Motion standing in my name:

Whereas it is provided by section 34(1) of the Administration of Justice (Deoxyribonucleic Acid) Act, 2012 (hereinafter referred to as “the Act”) that the Minister may make Regulations for the purpose of giving effect to this Act, and all such other matters and things as may appear necessary or expedient or are required to be prescribed for effectively carrying into operation the provisions of the Act:

And whereas it is provided by section 34(2), that Regulations made under the Act shall be subject to affirmative resolution of Parliament:

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And whereas the Minister of National Security has on the 5th day of March, 2018 made the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018:

And whereas it is expedient that the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018 now be affirmed:

Be it resolved that the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018 be approved.

Madam Speaker, it is with great pleasure that I stand on behalf of the Government of the Republic of Trinidad and Tobago. Under the leadership of the hon. Member for Diego Martin West, the hon. Prime Minister, Dr. Keith Rowley, to bring to life, today, something which has taken far too long. Madam Speaker, these Regulations are born, as the Motion says, pursuant to section 34(2) of the parent Act. But, Madam Speaker, we stand here on the 9th of April, 2018 talking about law, which is, as I have had to practice on several occasions in reading the Motion, which is rooted in something which is a well-known throughout the world, that is Deoxyribonucleic Acid or DNA laws. [*Crosstalk*] Say it again, Siparia? [*Crosstalk*] I will say it again. Putting it now, Madam Speaker, into context, it is incumbent to reflect upon where we were, what happened and why we stand here today.

And it is safe to say, Madam Speaker, that we are now, no less than 19 years away from the introduction of DNA laws in Trinidad and Tobago on the first occasion. On the 30th of November, 1999, a UNC Minister of National Security, Brig. Joseph Theodore then, stood to lay DNA laws in Trinidad and Tobago. That, in fact, hit the House of Representatives and the Senate and that law, that 2000 Act, whilst it was passed through both Houses of Parliament then—in fact Dr.

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Khan, the hon. Member for Barataria/San Juan was a Member speaking in that debate in the year 2000. Eighteen years ago, 19 if you go to the true date in 1999. That law was never proclaimed.

The second round of consultation taking us to DNA laws really commenced in the year 2004, and in 2004, there was a move to an expert consultancy from the United Kingdom joining Trinidad and Tobago to consider the DNA laws which then stood on the books of Trinidad and Tobago but which were not proclaimed, and that exercise took the Ministry of National Security to a view that there needed to be amendments to law. The amendments to the law, in fact, were tabled in the House of Representatives on the 18th of December, 2006. That is some 12 years ago. Member for Siparia and Member for Barataria/San Juan will no doubt remember that as they were contributors to that debate, as was the hon. Member of Laventille West and the hon. Prime Minister, the Member for Diego Martin West.

When we looked to that, that standing on the 18th of December, 2016, some 12 years ago, we passed through, in February 2007, a Joint Select Committee comprising Members of Opposition and Government then and that law was assented to on the 28th of September, 2007, almost a full year after it was introduced. Madam Speaker, it is true that in the period 2007 to 2010, there was a general election, the PNM Government then came into power, and whilst there was the move for the operationalization of that law, regrettably an election was called two and a half years before time and we then move into the third stage of amendments to DNA laws.

Madam Speaker, on the 9th of November, 2011, the Administration of Justice (DNA) Act, 2012 was laid in the House of Representatives. There were a number of pitfalls to the law as a result of which Members of the then Opposition,

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now Government, did not support the law in the House. We took it to the Senate. That came on the 15th of November, 2011. And as a result of a significant amount of work on the Senate Bench, which I dare say I had the privilege to sit on then in Opposition, we managed to carve out a by far better piece of law, and on the 8th of February, several months after it hit the Senate's desk, we managed to pass the Administration of Justice (DNA) Act, 2012. That Act was assented to on the 10th of May, 2012. Madam Speaker, we now stand six years, nearly, away from that event. And one has to ask: What is the purpose of passing laws? What is the purpose of bringing Acts of Parliament to life if you are going to sit down and not operationalize them? Because what I have just recounted is three different pieces of legislation, all dealing with DNA, 18 years, 19 years of analysis paralysis with no form of implementation.

But, Madam Speaker, what is quite interesting is that in the period 2010 to 2015, notwithstanding the support of then Opposition, now Government, the Ministry of Justice passing through, if I recall, some four Ministers of Justice; the Ministry of National Security passing through six Ministers of National Security. That is 10 bodies in the period 2010 to 2015, spent, as an aggregate total, \$22,927,938,071. Call it \$23 billion. And in that time, Madam Speaker, let me put into context what else happened. We have had 19 years of DNA laws. After 19 years of DNA laws, what is the position in Trinidad and Tobago?

Madam Speaker, we had DNA standing but what is interesting, let us look to what Trinidad and Tobago looked like. DNA laws, after all, were trumpeted for the 19 years straight as the law that would allow successful conviction, that would allow for accelerated criminal justice systems to go to work. Why? Because the evidence, coming out of DNA analysis, is so severe in its certainty to almost a 99.8

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Regulations, 2018 (cont'd)
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per cent accuracy rate, that it was trumpeted, quite correctly, that DNA laws could save the citizens of this country from serious problems in particular, as it relates to sexual offences and section 18 of the parent Act, of course, treats with sexual offences under the rubric of how we treat with complainants and complainants, of course, find themselves in the position, in a rape matter, in a sexual offences matter, of having to relive the harrowing experience each time matters are called.

We know in Trinidad and Tobago that there are some 29,000 preliminary enquiries that are in arrears. We know in Trinidad and Tobago that matters have taken close to 17 years to be taken through the preliminary enquiry process to get to the High Court where a trial eventually happens. But what happened with DNA analysis? The number of convicted persons incarcerated for sexual offences from the year 2000 to present, that is a full 18 years, is 321 people. The number of sexual offences cases reported from the year 2000 to present is 13,630 matters. So 13,630 matters reported, 321 people convicted. Listen to this: number of sexual offences cases solved using DNA evidence from the year 2000 to present, none. Number of buccal swaps completed for that purpose for sexual offences, six. Number of cold cases solved using DNA evidence where you use the material on what is referred to in section 4 of the parent Act as a stain, a crime scene, a piece of cloth, some form of material where blood or some other form of bodily fluid can be found in a sexual offences matter. Number of cold cases solved where the evidence speaks from the material, zero. So, Trinidad and Tobago has had DNA laws on the books for 19 years straight, 13,630 matters reported, 321 matters resulting in conviction, zero under DNA, zero under cold cases using DNA.

Madam Speaker, it is for that reason that upon coming into Government, our approach to treating with the criminal justice arena involved, not only passing law,

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Regulations, 2018 (cont'd)
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bringing law to the Parliament but operationalizing at the same time, and I need only draw example to the Family and Children Division, where 19 laws were amended; laws were put into operation; two courts opened; all of the subsidiary rules and regulations done; IT put in; personnel put in. And therefore, Madam Speaker, I am able to say today that with the gratitude to my learned colleague, the hon. Member for Point Fortin in particular, the Minister of National Security and his very hard-working team, the Ministry of National Security has taken it upon itself to operationalize the DNA laws, not only by bringing the Regulations which the hon. Minister signed on the 4th of March, 2018, to this House as we now stand to deal with it by affirmative resolution, but by treating with the purchasing of materials, the placement of personnel and the provision of plant and machinery and accommodation for the working of DNA laws, and my learned colleague, the Minister of National Security will no doubt speak to that in his presentation. But suffice it to say, Madam Speaker, the fact is that operationalizing these laws involves much more than just the written law.

In fact, if one goes to the parent Act, we note that the official DNA lab under section 5 of the parent law, that must be created; that is the Forensic Science Centre, and under section 5(2), you can use the ability to have accommodation provided through international agreements and arrangements with other countries, as per the scheduled approved list of countries. We looked to the parent Act again, we see that the DNA Databank must be created. That is under section 7 of Part III of the parent Act. We see, again, in terms of elements of the law that have to be operationalized that the Custodian had to be appointed, and that, of course, comes in under section 8 of the parent Act. I am very pleased to say that the Custodian was, in fact, appointed in 2017 by this Government for the first time pursuant to

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section 8. [*Desk thumping*]

I am very pleased to say that we need to also look at the testing and population of the register, who it is that we approach to put material onto the databank and I give reference to sections 12 and 13 of the parent Act, as well as section 15 of the parent Act, as well as Schedule 3 of the parent Act where we prescribe that volunteers may give samples, certain categories of people may give samples on a compulsory basis, and very importantly, that law enforcement personnel, so described in Schedule 3 of the parent Act under the approval of the person set out in Schedule 4 of the parent Act, they too, must give samples to populate the database and I will come to that in a moment.

Obviously, section 29 of the parent law is equally relevant and that treats with the confidentiality and disclosure provisions to make sure that DNA profiles and DNA samples are managed so that they are not put into the public domain. After all, this law provides that suspects are to give DNA samples on a compulsory basis, detainees, deportees, persons who have been arrested, persons who are in pre-trial incarceration and persons who are convicted, and in those circumstances, confidentiality and restriction on disclosure is obviously a very material aspect of the law. Needless to say, we come into regulation 34—sorry, section 34 which provides for the laying of Regulations by way of affirmative resolution.

But, Madam Speaker, what is before us? This particular law, this particular subsidiary law, these Regulations standing as subsidiary law, actually, the parent Act only requires two things to be done. There are only two sections of the parent law which are relevant for today's purposes but the Regulations which are now on for affirmative resolution go far beyond that. The two sections that I wish to refer hon. Members to, that is the mandatory provisions, are to be found in section 22 of

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the parent Act and in section 23A of the parent Act and permit me to refer to those sections so that we can actually anchor them for the purposes of today's debate.

When we turn to section 22 of the parent Act, we actually have to treat— forgive me, I was looking at the Regulations. We look to section 22 of the parent Act. We note that there is a prescription for Regulations and it reads as follows. Madam Speaker, I refer to section 23, sorry, not section 22:

“A person who takes a sample under this Act shall—”

And then the process of method is set out.

“ensure...”

In subsection (2)(a):

“...that the package is properly sealed, labelled and identifiable both by him and the person who delivers the package; and

(b) record such information as may be prescribed by Regulations.”

That is section 23(2)(b). Further, section 23A of the parent Act:

“In every place or institution where DNA samples are to be collected, a record entitled “DNA Record” shall be kept in which it shall be recorded every instance in which a sample is taken at such place or institution.”

And subsection (2) says:

“The procedures for the keeping of DNA Record shall be prescribed by Regulations.”

So section 23, section 23A and section 34 of the parent Act, that is the only place you will find reference to Regulations.

The material before us now, Madam Speaker, involves Regulations as crafted by this Government which go a significant way beyond that and I will explain now for the record why we have taken that. The Regulations, Madam

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Speaker, are comprised of 30 regulations, three Schedules and relate to 10 Parts specifically, and I wish to put on the record, insofar as one is obliged to treat with the proportionality of including subsidiary legislation, permit me to say that the Regulations relate to the following sections of the parent law.

First of all, they relate to the interpretation section at section 4. Secondly, they relate to section 8 of the Act which is the “Appointment of the Custodian and Deputy Custodian”. They relate to section 10 of the parent Act which is the functions and duties of the Custodian. They relate to section 11 which relates to the reporting requirements. They relate to section 13 which is the obtaining of a non-intimate sample without consent. They relate to section 15 which is the requirement for certain persons to give non-intimate samples, again, without consent. They relate to section 18 which treats with the feature of complainants and complainants under the parent Act are defined as persons who are victims of sexual offences including rape. They relate to section 22, section 23, section 23A which treat with the procedures for taking non-intimate and intimate samples and post-collection procedures to be found at Part V of the parent Act. They treat with section 27 which treats with arrangement for foreign governments to share DNA data. Section 29 which relates to disclosure and confidentiality and of course, section 34 which treats with Regulations. Of particular note, material mention is the Third Schedule and the Fourth Schedule of the parent Act.

When we get to the Regulations, having identified the clauses that we believed, as a Government, should have been referenced in beefing Regulations, I would like to state that the Regulations are built upon certain very important core features. Madam Speaker, would you just let me know the precise time I must end?

Madam Speaker: 3.14.27.

Hon. F. Al-Rawi: That is the full 45? Thank you. 3.14. Thank you, Madam Speaker. Madam Speaker, when we look to the particular Regulations themselves, it is important to point out the following aspects. In the clause 2 of the Regulations, I wish hon. Members to take note of the definition of “crime scene material register”. That is a very important definition which is to be read alongside the concept of “reference sample”. Let me explain those.

The parent law requires only the concept of a “reference sample”. The law did not and the parent law does not disaggregate the two types of DNA material that you may be treating with and the Regulations now bring to life that difference of logical separation. On the one hand, a DNA sample may be known. It may be known by the persons, for instance, listed in the Third Schedule to the parent Act: the members of the police service, et cetera, who have to give their samples, and therefore, you know where it comes from. The person who volunteers under the legislation to give a sample, you know that person. A person who is attending a crime scene. But you will not know the crime scene material which is to be recorded in a different type of reference sample and that is where you do not know whose DNA it is. And the DNA, therefore, comes to life in particular when we treat with the concept of sexual offences, rape victims, sexual offences victims, where pursuant to the definition of a “crime scene” contained in section 4 of the parent Act, a crime scene includes the part of a human body. And therefore, when one looks to the terrible circumstances in treating with rape victims and sexual offences victim, a swab taken from a sex crime victim may very well find both provision of a known sample and an unknown sample and I am trying to be not too graphic in describing how it can make sense.

For those purposes, it was very important in the Regulations to separate out

“reference sample” from “crime scene material” and therefore, I point immediately to clause 30 of the Regulations which deals with:

“The Commissioner of Police shall cause a register to be created and maintained for the purpose of recording the information set out in Schedule 4 in relation to all crime scene material that is collected and to be submitted for the purpose of generating a DNA profile in accordance with the Act.”

So those are the very important core concepts, architecturally, if I could use that expression, in clause 2 of the Regulations.

Clause 3 of the Regulations, which is Part II of the Regulations, treats with the roles and responsibilities of the Custodian and very importantly, in clause 3 and clause 4, we have an improvement beyond the description in section 10 of the parent Act. Section 10 of the parent Act falls under Part III which is the National Forensic DNA Databank of Trinidad and Tobago and section 10 of that law says that:

“The Custodian shall—”

And then it lists items (a), (aa), (ab), (ac), (b), (c), (d) and it describes what the functions are and that the Custodian should act independently, et cetera. What we felt necessary was for an expansion, largely, coming off of the spring board of section 10(1)(d) of the parent Act to provide for the Custodian to ensure that all data in the bank is accurately loaded at the time of entry; the Custodian should at least once a year conduct an on-site visit at the Forensic Science Centre to ensure that it is within the capacity to perform the requisite DNA service, and that the Custodian may subject to the Regulations and standards—and I will come to that in a moment—accept DNA profiles and documentation generated by the Forensic Science Centre or an approved laboratory. It is necessary to stick a pin for a

moment.

For those who may be listening to this debate, let us break it down. DNA, which is 99.8 per cent certain, comes from crime scenes. Or, forgive me, if the figure is somewhere 99 plus, I know that my learned colleague from Fyzabad who is a medical doctor of good repute will correct me on the specific amount but 99 per cent. DNA comes from a crime scene or reference or crime scene position. The DNA under the provisions of the parent law is taken to the forensic centre. The Forensic Science Centre is a division of the Ministry of National Security. It is subjected to analysis there or aboard by approved laboratories within the context of the Act. That DNA analysis produces a profile. That profile is referred to the DNA Custodian. The DNA Custodian receives the profile and uploads it into a DNA databank. The Custodian receives a profile which is without reference to name or knowledge of who provided the sample.

There is an important separation between the Forensic Science Centre or approved laboratories and the Custodian because the Custodian does not know whose sample it is. It is an encrypted or tagged reference without name of provision of sample and that way, we ensure the protection of identity for persons who provide samples. By way of a further position, it is important to note that the Custodian, under the parent law, did not have to go to the Forensic Science Centre, but we felt that it was important in the Regulations to broaden the perspective to allow for that congruity between the two. So that we could ensure that the Forensic Science Centre was operational and that it was working in tandem with the forensic's other end of it, which is the Custodian's work.

Very importantly, in regulation 4, Madam Speaker, we are talking to the Custodian, from time to time, setting minimum standards in accordance with

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international best practices. Now, that refers to a concept of standard operating procedures. It refers to publication of standards. We have taken a very proportional step to ensure that those standards are gazetted. That ensures that there is transparency in the purpose, but very importantly, it takes avail a very interesting jurisprudence coming out of the United Kingdom Supreme Court and again, I will put it for the sake of proportionality on the record by referencing R (GC) versus the Metropolitan Police Commissioner. It is a case 2011 to be found of the *All England Law Reports* at page 859. And the Supreme Court, in England, was very careful to point out that there was benefit in allowing this subsidiary body, this forensic capacity at the DNA Custodian level, to do something which many argue the Parliament should have done. Should the Parliament prescribe the temperature, the size of the container? The English Parliament, the Supreme Court, said in fact that:

“Parliament is entitled...”

And I quote from paragraph 42:

“Parliament is entitled to give the police the power to create a scheme. No doubt it would have envisaged that a national scheme would be produced such as the...guidelines. The Secretary of State is accountable to Parliament for the scheme so that the democratic principle is preserved.”

Stick a pin. Our law provides for an annual report. It is in section 11 of the parent Act. We are publishing and gazetting the standards to go out. I continue at paragraph 43 of that judgment:

“There is no reason in principle why the police (together with the Secretary of State) should be less well equipped than Parliament to create guidelines for the exercise of the...power.”

And therefore, there is ample jurisprudence, which we seek to take avail of, in

providing for the publication and issuance of standard operating procedures or guidelines which is to be made by the DNA Custodian because there is a preservation of his obligation to respond and report to Parliament on an annual basis as the parent Act provides.

Clause 5 of the Regulations treats with the preservation of integrity of the databank and these are anchored back to Part III of the parent Act, in particular section 7, section 10, section 29 and I have omitted section 11 as well which is the report. And what we are doing is ensuring that the Custodian shall preserve the integrity of the databank and important, that he keeps an up-to-date log of all data, reinstated, suspended, amended or deleted. Again, I stick a pin. One of the reasons that the House of Representatives, in 2011/2012, had problem in passing the DNA law is that then Minister of Justice was not cognizant of the ruling in the UK versus Marper principle, that particular case as it went to the European courts, where 25 judges of the European court reflected upon these provisions, and very importantly, to bring to life the proportionality and the need to know what data you had, was it securely kept, did you delete it, did you keep it, how did you manage it. These, again, improve the constitutionality of the parent law.

Clause 6, again, relates to sections 7, 10, 11 of the parent Act. Indeed, also section 29. Section 29 and section 30, for the record, refer to the creation of the obligation for confidentiality and non-disclosure and also in section 30, for the criminalization of breaches of disclosure and confidentiality. In clause 6, the Custodian shall develop the IT systems and ensure essentially that the data protection is managed. Obviously, data protection is a very important part of the laws of Trinidad and Tobago and no doubt, it is something that we must ensure is managed carefully.

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Part III, which is clauses 7 straight down to 12 inclusive, deal with taking of samples under Part III of the Regulations. In particular, clause 7 treats with the taking of samples from a complainant. And here is where we see the bringing to life of the disaggregation between reference samples and crime scene material, so that we can make sense where the parent law had not in fact gone far enough of how we treat the savagery related to sexual offences, including rape.

Madam Speaker, we have specifically ensured that we have adhered to the parent law, in that only certain categories of persons can treat with the taking of evidence—that is, those prescribed by the parent Act—most importantly the authorized officers, including the qualified persons. And the qualified persons are defined at section 4 of the parent Act to include the persons so described.

Madam Speaker, clause 8 again treats with section 13's requirements and the maintenance of entries at the Forensic Science Centre and the DNA record. Remember the DNA record was included as a definitional term in the parent Act and therefore clause 8 takes avail of the two forms of registration that we must have.

Madam Speaker, clause 9 treats with the taking of a sample from a person admitted to a private hospital, that there must be the presence of a witness, particularly if we are dealing with people who are incapable as the parent law describes, or persons with diminished responsibility or capacity.

Clause 10 treats with those persons incarcerated in prison, again with the prescriptive cautions that we have and the separation of crime scene material versus DNA record being carefully observed.

Clause 11 treats with reference samples at a port of entry, where we treat

with deportees or detainees at the ports of entry. Again, the parent law provides for them to give samples on a compulsory basis. There is no need for consent.

Clause 12 takes care of the detention of our children at child rehabilitation centres, and the necessary prescriptive cautions that we ought to have. We must remind that there are no longer YTC-type detention, youth training centres, as the hon. Member for Oropouche West knows. But what we are treating with now is a child rehabilitation centre and child rehabilitation centres under the laws that treat with that, the Child Rehabilitation Act and the Children's Community Residences, Foster Care and Nurseries legislation, as those two can together be inferred and interpreted to mean a child rehabilitation centre.

Madam Speaker, when we get to Part IV of the regs which is clauses 13 and 14. That is where we are talking about the Forensic Science Centre. Remember, the Forensic Science Centre is not a creature of law. It is not created as a statutory authority. It is merely a division under the Ministry of National Security. For those purposes, the legislative springboard to consider this comes from section 5 of the parent Act, where section 5 designates the Forensic Science Centre as an authorized facility alongside such approved entities as may go into operation. And in Part IV analysis provisions, clauses 13 and 14, we are making sure that we have the custodian and the Forensic Science Director treating with it in accordance with the parent law.

Part V treats with the searches of the databank, and that is clauses 15 through to 16, but not including 16. In clause 15, essentially we are ensuring that we prescribe who can run a search and that every time you run a search against the databank, every time the Custodian is asked to run a search, he must upload entries every time and check it against the databank.

The usefulness of DNA law is that when a crime scene or a DNA report hits the Custodian, the databank is filled and you upload the material information you get on the profile. Once it is uploaded, the machinery goes to work and you see if you have a positive hit—has the material which you have entered matched something which is on your database? So as your database grows, as your database is enlarged, your likelihood of having a hit on the database obviously increases.

Madam Speaker, after you run the search every time, these subdivisions of clause 15 treat with when a search may be requested, as opposed to automatically done; when a search involves material or a profile which is of a poor quality; what you are allowed to do when it is a poor quality. You may reference it but you cannot upload the incomplete profile. It deals with the provision where you have a duplicate on the computer databank. Because a duplicate may be borne about as a result of either a human error or genetically identical persons, which is identical twins. And then it treats with how we treat with duplications, putting a positive obligation upon the custodian to report the matter as a criminal complaint to the Commissioner of Police to ensure that there is no tampering with the database. We treat with match reports. We treat with the forms and the nature of reports in the rest of clause 15.

Clauses 16, 17, 18, 19, 20, 21, 22, 23, deal with records under Part VI of the Regulations. And this is very important, because here is where we are bringing to life the positive obligation in the parent Act, section 23 of the parent Act, section 23A of the parent Act. It is in this Part VI, where we treat with records, that we have disaggregated the various circumstances for the keeping of records. One, where you are dealing with the Commissioner of Police. We have included as well two, where we are dealing with the Commissioner of Prisons; three, where we are

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dealing with immigration; four, where we are dealing with child rehabilitation centres; and five, where we are dealing with the Forensic Science Centre itself.

But, Madam Speaker, very importantly, what we are doing is putting in a time frame for uploading. A senior officer in charge of a place directed by the Commission of Prisons, et cetera, shall every seven days forward a log of every entry made in the DNA record and Register of Crime Scene Material. And we ensure, therefore, that it is a continuous reporting requirement built into the law so that we can take this into operation. And this part, therefore, Part VI of the Regulations, is the core part, which matches up on the positive obligation in the parent Act.

Part VII of the Regulations treats with storage of reference samples and crime scene material. In particular, we deal with the fact that there should be a secure room or receptacle at every place where the crime scene material is taken. We ensure that the reference samples shall comply with guidelines to be issued in the best-case practice pursuant to the jurisprudence that I have just referred to. And importantly, very importantly, in 24(2), you will note that we treat with the chain of custody flow, and the chain of custody flow is to ensure that we have prescribed every step along the way. So that somebody who is facing down a 99 per cent certainty for DNA does not find himself the beneficiary of an acquittal, simply because the evidence could not be dealt with on the chain of custody principle. And, therefore, clause 22 is an important note for the hon. Members of this House.

Clause 25 falls under Part VIII, which treats with the transportation. We, in treating with transportation, deal with a mandatory requirement that crime scene material or reference samples collected, shall in no case be delivered more than seven days after collected. And that is to ensure that we get the material to the

Forensic Science Centre, not only in a good state and condition, but on time, or within a reasonable time, to ensure the driving of the positions.

Members may think that that time frame may be long, if you are dealing with degrading material such as a matter which can be decomposed, by way of bacterial or other infections or positions. But these have come from the prescriptions of the DNA Custodian, and in particular to be borne in mind that they come about as a result of the storage requirements that the custodian will prescribe every place must have; refrigeration, receptacles, et cetera.

Part IX treats with privacy standards, security and access, and that is clause 26, clause 27, clause 28, inclusive, those three clauses. And very importantly, we are treating with that element of the law that causes every jurisdiction around the world that has DNA laws concerned, ensuring that privacy is done on an encryption basis, that the electronic system and transformation is encrypted end to end, that the data access points are very carefully managed, that we know who accesses, who has live feed from these entities. Because confidentiality is obviously an important requirement, because the golden thread, the golden rule of law, of being innocent until proven guilty in these forms of matters, is very critical.

Very often people may make allegations resulting in suspicion, resulting in charge, but when the due process of law goes through, what is coloured to be an argument may be very different from the actual facts. And we have seen that in our jurisdiction, in umpteen forms and fashions.

Madam Speaker, our access to databank provisions our disclosure of DNA data in this particular section, marry up with section 29 of the parent Act, and of course are circumscribed by the offences as they are particularized in section 30 of the parent Act.

Part X, clause 29 and clause 30, treat with again, how we treat with evidence. In clause 29, when the Forensic Science Centre receives reference samples in Form 2, Form 4 and Form 6 of the parent Act, under Schedule 2 of the parent Act, the question of who keeps original and who has copy had to be mapped out, and therefore we have treated with it in this particular clause, clause 29. And clause 30, as I mentioned earlier, treats with the Commissioner of Police causing a register to be created and maintained for the purpose of recording information set out in Schedule 4. And that, of course, brings to life, the disaggregation between reference sample and crime scene material.

The Schedules which are annexed treat with the prescription pursuant to regulations 15(9) and 28(2), and that is Form 1 of Schedule 1. Form 2 treats with section 28(2), and that deals with a request for disclosure under 26(2). Form 3 treats with regulation 29, the record of taking crime scene material and chain of custody crime scene material other than from a complainant, and then we treat with Schedule 2, which is the information to be contained in a DNA record; Schedule 3, the information to be recorded by the Forensic Science Centre; Schedule 4, the information to be recorded in the Crime Scene Material Register. All in all, Madam Speaker, this law brings to life 19 years of analysis paralysis.

It represents, when you tie in what my learned colleagues on our Benches will say. It brings in what we have operationalized at the same time while we draft. Where others simply talk about law and talk about plans, we are insistent upon putting them into effect. This is guaranteed to change very important areas in the law.

I look forward to what my learned colleagues opposite have to say. I remind that this debate does not permit for amendment of the Regulations, because they

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are already implemented. So Regulations are not on, in terms of the procedure of Parliament, for affirmative resolution, and I beg to move. [*Desk thumping*]

Question proposed.

Dr. Bhoendradatt Tewarie (*Caroni Central*): Thank you very much, Madam Speaker. I listened attentively to the Attorney General present the Regulations that he has brought before this House for affirmative resolution by the Members of Parliament in the House of Representatives. And he started by giving a history, or can I say an interpretation of history of the Bill. I will not contest many of the interpretations, because I think we on this side have grown tired of hearing the Government come here and say that we did such and such a thing and we did not do it well, or we did not do it, and they are now, you know, the fixers of everything in Trinidad and Tobago. So I would not even engage that. But, I do want to say that this particular set of Regulations are important Regulations, and for the benefit, Madam Speaker, through you, of the population, these Regulations have to do with a Bill that was passed in 2012, and the Attorney General ignored a part of the history. And while he mentioned that the Senate supported it in the House of Representatives, his party in the House of Representatives, did not support it.

Mr. Al-Rawi: I said that.

Dr. B. Tewarie: And they did not support it, perhaps, with good reason. I do not know. But I am glad to see that they have acknowledged the worth of the Bill enough to come here and bring the Regulations that are due, and we will look carefully at the Regulations and say what are some of our concerns. Because you know, when the Bill first came here, and it is a very long name. And for the benefit of the population, although the long name is deoxyribonucleic, that is to say an Act

to repeal and replace deoxyribonucleic acid, I want to say that the word that everybody knows is DNA.

And it is easier to use DNA, because people understand that. And they know that with the rise of investigation that have to do with genetics, the DNA has a lot of importance in determining accuracy, and secondly, determining guilt or innocence. And the Attorney General did say that, that it can decisively determine guilt or innocence. So for that reason this set of Regulations, which allow you, under the law of 2012, to use DNA in order to find somebody guilty or innocence, these Regulations are very, very important.

When the Bill first came up in 2012—and the Attorney General did mention that there was a longer history, he traced it to the present time to 19 years—it was not a new Bill. It was a Bill which sought to repeal and replace a Bill which existed before. So that the use of DNA was in fact a factor in the legal artillery, so to speak, in helping to solve crimes and in helping to bring matters before the court for resolution. But the 2012 Bill, when we brought the Bill, there were many contentious issues. Two of the contentious issues was—were—first of all the constitutionality. I have to be careful with my grammar these days. You see, if you make a mistake in grammar it can nullify every important thing that you are dealing with in this country. [*Desk thumping*] You see grammar has become the big issue in the world, in Trinidad and Tobago, for the Government of Trinidad and Tobago. So I have to be very careful.

So, in the Bill, there were two issues that were contentious, critical. One was the constitutionality because the Bill itself required a three-fifths majority for passage. And the second thing, with the constitutionality, of course, the issue was human rights and the extent to which human rights might be abridged with the

clauses in the law. And an issue that came up during the debate, related to that, had to do with the length of time during which you could keep DNA material under lock and key, so to speak, in the registry.

But all of those things, therefore, make it required of us that we look at the Regulations very carefully. Because, you see, in general, when you pass a law, the law is not prescriptive. The law gives you the parameters within which one shall govern, how the Government shall govern, or how agencies that are given the powers by the law shall govern. But the Regulations tend to be prescriptive. The Regulations tell you how the law shall be enforced. And that is why we need to be careful about the Regulations. So, while we have no problem with bringing the Regulations and we know that the Regulations are overdue, while we have no problems with that, we do have some issues that we want to raise in relation to the Regulations. So I will go directly to the Regulations and deal with some of these issues.

So, in the explanatory memoranda for instance:

“The Regulations will provide for the roles and responsibilities of the Custodian in relation to the Databank including the loading of data onto the Databank...”

And it goes on in the paragraph to outline. And the real question there is: Who is the Custodian? Is it just one appointee or is it a custodianship of, that is to say, an organization within the Forensic Science Centre that will do this thing? So that is very important issue.

The second thing, and I want to say, Attorney General, I am not asking this question facetiously. Because when you look at what has to be done here, and the role that DNA plays in the legal system, in the court system, it is a very important,

very, very, important issue.

The second thing that I want to raise is the issue of the databank itself. And the reason I raise that in the Regulations is because the databank, of course, will be a record of all the data that you have collected, having to do with DNA. But I gather, from the Regulations and from the parent legislation that this is going to be electronically provided. But I get the feeling, because of the process of taking DNA from somebody, protecting it, getting it to the place where it must be assessed and scrutinized, that there are logs involved and I do not know if those logs are logbooks, all right, you know.

For instance, you know, if you go to the police station for any matter at all and they have to record it, whether it is a traffic matter or whether it is a complaint, or whether it is to pay a gun licence or whatever it is, you have these large books and receipts, and so on, et cetera, and sometimes you wonder if these things are properly kept. So, I want to ask this question because we are in the 21st Century now and if we are doing it, I think it is important to do it right. Are we going to have all of this data stored electronically and a system that connects and allows you to move the data freely?

Because if you want to do a search for someone in the United States, for instance, in other words if somebody in the United States ask you to do a search for them in Trinidad and Tobago, will you be able to receive what they send you electronically? If you have police taking sample at one place in a hospital or in a health centre, as the Regulations outline and as the Bill outlines, are you going to do that electronically, or is this thing recorded in a book and you put the sample in some kind of receptacle and take it to the station? I am really, really concerned about whether we are going to be prepared to make the legislation valuable, in

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terms of what the intention of the Bill is. All right? So I raise those two issues.

The second thing is the—I notice something about the Custodian and about the Director of the Forensic Science Centre. If you look at the Regulations, you will see that there are instances in which the Custodian seems like the authority. And is the Custodian of all the data and shall do all the searches and shall make sure that everything is correct and properly done, et cetera. But if you look at the Forensic Science Centre, you will see that the director also has a role, perhaps not of custodianship but you do have a role as the boss of the place. And I wonder if we are not going to end up with some difficulty. And I simply want to flag that. Because, you know, systems are important. But people make systems work or not work. And personalities can always and often get in the way of the functionality or dysfunctionality of systems. And if we in the Regulations, you say that these Regulations are unamendable but—

Mr. Al-Rawi: Sorry, hon. Member.

Dr. B. Tewarie: Yes.

Mr. Al-Rawi: Thank you for allowing me the opportunity to correct that small aspect. I was advised initially that they were not. The Clerk has in fact confirmed with me, based upon my own enquiry, but it came after I spoke, that there is room yet for it. So thank you for allowing me that.

Dr. B. Tewarie: For amendment. So thank you very much. That is good then. So if we are going to do this thing, and there is a concern about a clash, a potential clash that will create difficulty, perhaps we should correct it before we—I would not say cast it in stone, but before we firm it up. Okay? So this is another issue that I want to raise. So that the three big issues I am raising here is who or how many constitute the custodianship? Secondly, what is the role of IT in this matter? And

can we get away from these logbooks that you can tear out pages of paper from, like we have tried to solve in the land issues that we brought here before in the Legislature?

And thirdly, can we clarify the roles of the Custodian and the Director of the Forensic Science Centre to the extent that we prevent conflict from happening by a clarification of roles before we seal these Regulations here in the Parliament?

So, those are the three key points that I would make, and I would go on now to the Regulations themselves, to mention a few things. All right? Now, this set of Regulations in 3(1), it says that:

“The Custodian shall ensure that all data entered into the Databank is accurately loaded at...”

—all times. Okay? So, how is accuracy assured? All right? Again, I am not being facetious and I am not quibbling. If we are going to have a system that we are setting up, not for the first time but trying to consolidate, if we are trying to consolidate this and have a 21st Century system that really works and supports justice, how is accuracy going to be determined? How are we to ensure that tampering does not occur? All right?

3.30 p.m.

The other thing here is that in the second clause, 3(2):

“The Custodian shall at least once a year conduct an on-site visit to the Forensic Science Centre to ensure that the Forensic Science Centre has the capability to perform requisite DNA service.”

Now, I have a problem with that. You cannot tell me that the powers of inspection have to do with one visit to the forensic center once a year when you have this database that is electronically organized for which accuracy is demanded

and which you have to have systems that really are not penetrable. Because you are dealing here with guilt or innocence, you are dealing here with the possibility of conviction, and you are dealing here with a legal system and whether it works or does not work well. If these things are to be guaranteed it seems to me that the inspection system in a proper electronic system has to be more than a site visit. So, I want to raise that because it is an important issue.

The Custodian may subject to these Regulations, you see, and then this becomes important. Because anything the Custodian does, or the other members of his team if there are other members of the team, anything that they do can be justified under these Regulations. So you get this regulation wrong, or you create a loophole in the regulation, and you can end up creating a problem simply because of the fact that the loophole exists, okay? So I raise that as well.

The Custodian shall, from time to time, set the minimum standards, in accordance with international best practices, for entry into and removal of data for the databank.

So, the Custodian has determined really what is the international best practice, and therefore besides these Regulations, clearly the Custodian himself has to define what best practice is, the manual of practice so to speak inside the institution, and therefore the custodian and the role that he plays as I said in relation to the forensic director is also important.

Now, finally to whom is the custodian accountable? Is he accountable to the director of the forensic centre, or is there another is there somebody else in the accountability system? Now, I know the reports are prepared annually. And the reports, I cannot remember if I picked this up—would the report go to the Ministry of National Security?

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Mr. Al-Rawi: Yes.

Dr. B. Tewarie: Would that then be laid in Parliament? I make that assumption.

Mr. Al-Rawi: Yes.

Dr. B. Tewarie: Yeah, well then so there is some accountability there. But, it is only after the fact, okay? So, I want to raise the question of accountability in the system. And Attorney General, do not get me wrong, this Bill was passed under our tenure, we are not against the Bill. But what we want to do is to make the Regulations right, all right?

And you know and I know that clarity and precision are almost everything. You cannot protect everything, you cannot think out everything and things will happen. But to the extent that we can think through things beforehand, we can make it better. And this is all I am after in pointing to some of these issues in the Regulations.

And in the definition—you see the definitions in Part II, of the Regulations of what the Custodian shall do including reinstatements, suspension, amendment or deletion from the databank, including—I mean, all of those things really make it essential that, by these duties we have to make sure that the accountability question is an important question.

Then we go to Part III, which is the taking of samples, and the big issue here in the samples is really the protection of the rights of the individuals, which were raised when the parent Bill was being debated. And, I see that the regulation tries very hard to take care of those things.

I do not think that there are any attempts here to deny fairness to the individual who in this particular situation would be the accused or the suspected, et cetera, and there is a distinction made as in the Bill between how you do the

voluntary DNA sample, and how you do the one which is required under law, because you now have a power to do it.

And then we get into other areas under this same section, the section 3 or when the taking of samples. And very important issues are raised here, not just for the citizen of Trinidad and Tobago, but for the issue of immigration. And for the fact that you are dealing with people entering your ports, the airport and the seaports and how you deal with those issues and what is the infrastructure that is going to be required in order to make this thing possible.

Now, we have challenges here, right now, with immigration from Venezuela. We assume the best and we say that most of the people who are coming from Venezuela will be citizens just running away from a difficult situation and looking for a better place to secure themselves either temporarily or for a longer time.

But the fact is that you do have many parts of the country that can be accessed by boats, not just from Venezuela but from anywhere else. We know that we have an active drug trade in Trinidad and Tobago. We know that we have an active gunrunning trade in Trinidad and Tobago. We know that we have an active trade in human persons in Trinidad and Tobago and we know that individuals are involved in the transportation of animals and other things that they should not be transporting. And all of these things are illegal.

And the question that really arises is, are there connectivities within the legal system that we operate when we add this, this set of Regulations that allow us any more flexibility, in addressing issues such as that. Because I imagine eventually we are going to be hooked up, once we establish our national database, we are going to be able to access other international databases just as others can access us and ask

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us to search, we can ask them to search. And I wonder if perhaps, any consideration has been given to the kind of infrastructure that we need to have, to support this aspect of the regulation having to do with section 3, I think, Part III, taking samples in which they deal not just with citizens but with people entering the ports, okay?

Now, in Part IV, now I think the AG would have to explain a little bit about the child, for me, which is on page 6, of the regulations, having to do with a child—

“child rehabilitation centre for the first time a subsequent time...”

—and so on. Either I do not understand it or I missed it or I did not connect it well to the parent Bill. But I could not understand its role in the regulation.

Mr. Al-Rawi: Hon. Member—

Dr. B. Tewarie: Yes, why do you not do it when you respond?

Mr. Al-Rawi: We amended the parent law in the MCD Bill.

Dr. B. Tewarie: Okay, so that is what it links to? [*Interruption*] I always give way, I do not have a problem. But the other thing I am concerned about in Part IV is the analysis under Part IV under analysis where you have things in 13(1) as soon as possible, and then you have it repeated again in 13(2) as soon as possible, can we put some definite timelines in these things? Why can we not have the DNA samples done within, whatever it takes? I mean you all would know, perhaps by consultation, what the time would be required to do this thing properly. Can it not be two weeks, or a month, or three days, or whatever it is and we put it into the legislation? What is this thing, “as soon as possible”, that could be forever?

You know what happens when you have loopholes like this? You know, and then everything becomes now culture, so when you develop a culture where “as

soon as possible” becomes six months or a year, that has implications for the entire legal system. The justice system which is already backed up with all these courts— with all these cases that cannot be heard, let us try and unclog the system, here man. This is something modern that we are doing, you know.

And then in 14:

“Prior to the profile being sent to the Custodian, the Forensic Science Centre or the approved laboratory shall ensure that the profile sent to the Custodian does not identify the person to whom the profile relates.”

Now, this is an issue having really to do with the human rights and the question is, who shall ensure? How shall this be ensured? Prior to a profile being sent to the Custodian, the Forensic Science Centre or the approval laboratory shall ensure that the profile sent to the Custodian does not identify the person to whom the profile relates. Who shall ensure? Is it when the Custodian sees it or when, you know? Now, I want to say that I did look at the forms in the back, I looked at the forms in the back, and I see that the forms do conform to what the Regulations say, all right? So, I am not trying to make an issue.

And this other issue on page 8, searches of the databank where you shall accept something without meeting the minimum standards and then the Custodian can determine whether or not they are going to include it in the database. First of all, I would like to ask, well how if you do not put it in the database are you going to assess the sample against others in searches? And secondly, if they do not meet the standards, why should you allow it to be in the database? And what implications do the standards have for—I do not know, these things. I mean, I am not an expert in these things, but I mean, is there any implication for not meeting the standards of contamination of the database or is there any issue that is involved

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that I do not understand for which you have to have minimum standards?

The minimum standards—

Madam Speaker: Hon. Member for Caroni Central, your original 30 minutes are now spent; you are entitled to 15 more minutes. If you wish to avail yourself, you may proceed.

Dr. B. Tewarie: I would like to, Madam Speaker, thank you very much. [*Desk thumping*] So where a request is made for a search under regulation 3:

“the custodian shall conduct the search without loading the DNA profile unto the Databank.”

Well, can he or she do that and should he or she be allowed to put substandard data in the bank, and what would that mean for the bank itself and the other data in it? Okay?

And then we go on to section 6, and here we have another player in this, which is the Commissioner of Police:

“A DNA record shall contain the data element set out in Schedule 2.” And then the Commissioner of Police and then through him senior officers in charge, et cetera, have certain roles and this is where the issue of whether it is book or electronic come in. Because the logbooks are mentioned on several occasions here on pages 9 and 10.

So I raise that, I do not want to belabour the point and afterwards storage and reference, privacy standards, access and so on 30 that is to say Part 10, clause 30:

“The Commissioner of Police shall cause a register to be created and maintained for the purpose of recording the information set out in Schedule 4 in relation to all crime scene material that is collected and to be submitted

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for the purpose of generating a DNA profile...”

Now, that raises other issues; one, is it a book or is it electronic? Secondly, will this be decentralized or is there some central storage within the police? And is that central storage within the police related to the database that is being accumulated and guarded at the Forensic Science Centre? Okay?

So, I would say most of my contribution here today has really been in terms of queries for the purpose of clarification, on issues such as the precision and clarity of the regulations. The role of the Custodian and the nature of the custodianship, the integrity of the databank and how it will be maintained, the issue of accountability for the Custodian, the issue of a clash of interests or powers of the custodian and the director of the centre for forensic sciences, and those really would be my issues.

But, I want to raise a couple of other things which is that, you know, I do not know, I mean, the Attorney General mentioned 19 years that we took to bring these Regulations here over various governments, and I do not think the intention was to take 19 years. But the question I would like to ask is that was there an urgency this time to call Parliament on a Monday to have [*Laughter*] these Regulations—we could have done it on Friday.

Hon. Member: That is for the reshuffle.

Dr. B. Tewarie: No, we could have done it on Friday. I mean, I think we have Parliament on Friday or we could have done it last Friday which is the normal day. Again I am not saying, I have nothing against work, I work very hard whatever I do, whether I am here or not. And most of my colleagues do and I also—but you know you want to plan your week in a certain way; for instance on Monday I spend at my Montrose office with my constituents. So, and Tuesday I am in

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Freeport and generally for Parliament I prepare on a Wednesday from Wednesday afternoon, Thursday, because I know it is Friday.

So I mean, the order of business, you know, requires us to, you know, there will be the odd time you can do it any day, because something is urgent but we would like it to be for the urgency of the matter. And the—I imagine the Attorney General will say well this was part of his Parliamentary agenda to his priority agenda for the Parliament to bring this but I do not see the urgency in terms of a Monday as different from a Friday.

Now, I want to recognize the DNA Bill here in context and to appreciate the fact as the population itself appreciates that simply getting these Regulations right and I hope that we will get them right, I hope we will work together to get the right set of regulations—will not address the skyrocketing rate of murders and crime in the country and while we are dealing here with sexual offences, et cetera, we are not dealing with predatory offences when we have the opportunity to do it.

It will not only address the issue of murders, it will not address the issues of the crime of rape unless the rapist is first brought to trial. That means to say they have to be caught, all right? And which means that he must be caught and then charged first and then for justice to take police the process must be reasonably swift. And this is where the DNA matter becomes important and that is why I am raising the issue of time, and we should really try to have a system in which where the certainty of the DNA process assures a just outcome.

It seems to me that those cases should be brought forward in the system. So that in every—if we quicken the DNA process, if we quicken the time by which DNA sent to the forensic centre is sent back for action in the courts, and we then

extricate it out of the court system all those issues which could now be decisively informed by the DNA, all right? Then we could in fact quicken the court process for some of these cases and if you had to use DNA, it would be for a serious crime.

So for all serious crimes, it means that we can use this process of the DNA and the Regulations, we are now making to fast-track the court process for certain crimes in the country.

So, Madam Speaker, I have said what I intended to say in this debate and I will not prolong it. I will not add any more to what I have said. I hope the Attorney General will take very seriously the issues that I have raised and understand that they are raised with the best of intentions to ensure that we have good regulations and that at the end of the day the justice system is improved in this country, because it sorely very, very badly needs improvement. Thank you very, very much.

The Minister in the Ministry of the Attorney General and Legal Affairs and Minister in the Office of the Prime Minister (Hon. Stuart Young): [*Desk thumping*] Thank you very much, Madam Speaker. Thank you, Member for Caroni Central, for your contribution.

Madam Speaker, at the outset if I may be permitted to put these Regulations into context, because I think it is important that we bring it back squarely into context. I think most citizens in Trinidad and Tobago would accept that there is a need for us as legislators to provide those who are engaged in law enforcement, that is, the Trinidad and Tobago Police Service, as well as those who are engaged in the prosecution of criminal activity and of crimes in the courts, that is the DPP's department, as well as the Trinidad and Tobago Police Service, and also those who are engaged in defending those who are accused of crime, that is, criminal lawyers, who practise at the Criminal Bar on the defence side with as much technology and

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crime-solving detection and prosecution assets as possible to get the criminal justice system where it needs to be.

Every citizen of Trinidad and Tobago and those who look at television would immediately know the importance of DNA and we cannot change the past, we cannot change what has gone on since 2000 to now. So I would not waste time on that and the fact that this legislation has been in existence since 2000.

But I would like to start my contribution as a citizen of Trinidad and Tobago, and as the Member of Parliament for Port of Spain North/St. Ann's West, in thanking the Minister of National Security and his staff and the Attorney General and this staff [*Desk thumping*] for doing what should have been done before. And for finally bringing to Parliament the Regulations that are necessary for us to finally implement the use of DNA and DNA samples for the use in detection and prosecution of crime in Trinidad and Tobago.

So I start by thanking them. These Regulations, Madam Speaker, are now all about implementation, and I listened very carefully to my friend and colleague from Caroni Central and what he spoke about. But the truth is technology evolves as we all know and what may have been applicable in DNA technology, DNA usage, DNA storage, analysis, et cetera, 10, 15, five years ago continues to evolve. So I am sure, that my friend would accept that in devising regulations for the implementation of this technology one has to find a balance and you have to strike a balance between the specifics of what exists now on today's date in technology and allowing a platform for those who are utilizing the technology, i.e. the custodian, law enforcement, prosecution some area, or some allowance for the scope to grow as the technology moves. And, Madam Speaker, I would like to say that having perused the Regulations, I think that the Minister of

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National Security and the Attorney General have struck exactly that balance here today. [*Desk thumping*]

The most important thing with DNA is what is known as the chain of custody. And I think anyone who has studied it or gives any moment of thought to it would accept that the chain of custody meaning, starting with the sampling and how you get the sampling into the database. But also when you go to a crime scene, or you are taking samples from persons to ensure that there is a proper chain of custody that makes sure that when that sample is taken, it is not influenced or tampered with, as my friend from Caroni East says, and there is no attempt to distort it all the way through to the bank.

And then when it is put into the bank that you have a proper system in place for storage, and that we are utilizing the best-in-class technology to ensure that you can then match with the database samples that come in after, et cetera. Because DNA is about a couple things, first of all making sure you have a wide database that has as many DNA samples as possible. So when a new sample is brought in from a crime scene or any other criminal activity it can then be matched exactly. And what you have to do is that you have to ensure that that chain of custody in building out your sample and your database is properly protected, it is properly stored, and no one can unduly or illegally influence it and distort it to make sure that in the future detection of crime the wrong connection is then made.

And I think what we understand is the technology that is improved over the course of years has now narrowed down once you have proper storage, you have a proper system in place to protect that storage. It has narrowed down the risk of there being any influencing or any wrong—any person who is not guilty being found guilty. So that is what DNA is really about. It is about narrowing that gap,

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narrowing the statistical gap for a person who is not guilty be accused wrongfully of a crime.

And Madam Speaker, having looked at the Regulations, I think we have gotten that match correct. I think we have found and struck the right balance. And I would like if I may be permitted, to start by going for the purpose of the population understanding directly to schedule 2 of the Regulations and it is important that we the citizens understand that by looking at schedule 2 exactly what information is to be contained in a DNA record. The first thing is:

- “1. Name of person to whom sample relates;
2. Date of birth of person to whom sample relates;
3. Sex of person to whom sample relates;
4. Race of person to whom sample relates;
5. Name of person taking sample”

Immediately there, you see the person who is responsible being pinpointed so that when we look at it in the future, we will know who is the person that was taking these samples.

4.00 p.m.

There was a case, unfortunately, involving a Trinidadian recently in the State of Florida—I see my friend, the Member for Pointe-a-Pierre nodding his head. He knows the case of which I speak—where we had a Trinidadian becoming well known for the wrong reason, once again—and it was all about the DNA sampling—and we had a Trinidadian who for over 10 years was taking DNA samples and interfering with it in Florida, and that now has led to successful prosecution of that person.

What we are looking to do here and, as you said, we may not get every

single item right, but we are working towards it. We cannot sit waiting forever, as we have already done. We have waited for 18 years now to try and implement the system. I am proud that today we are finally implementing a DNA system. There has been a great amount of thought process. We are not reinventing the wheel. We have gone to persons who have expertise in these areas, and we have produced regulations, Madam Speaker, in my respectful submission, find that right balance between the degree of specificity needed and particularization needed, but allowing some scope as well as the technology advances, for the Custodian and those that fall under the Custodian, the officers and the departments, to get it done correctly.

And what I can tell the citizens of Trinidad and Tobago here today—and I am sure that my colleague, the Minister of National Security and the Member of Parliament for Point Fortin will expand on it—is as a Government, we have gone and we have actually gotten an agreement with the Chinese—and I will leave him to expand on it—to build a state-of-the-art DNA facility for Trinidad and Tobago gratis. They are not going to be charging us for it for the first phase, and we are ensuring that we have the best possible technology, the best storage facilities, et cetera, to ensure that we get this right. And these Regulations, as I said, Madam Speaker, are all about implementation because one can get caught up in: “Am I getting this right?” This allows them the broad enough scope of utilizing the existing technology that is available today to get it right. So we go on.

- “5. The name of person taking the sample
6. Address where the sample was taken
7. Type of sample taken
8. Date sample was taken
9. Witness form information

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10. Volunteer form information
11. Consent form information
12. Name of Investigating Officer, Rank and Service number and contact information.”

That is the information that is necessary and contained in a DNA record under these Regulations.

If we can see, in the Explanatory part of this regulation, it immediately says that this is intended to regulate the manner that DNA is collected, transported, stored and entered into the DNA database, which is exactly what I was just saying. This is all about the chain of custody of DNA samples and ensuring that it can be properly utilized in detection of criminal activity, and then in the successful prosecution of criminal activity, because the statistical opportunity for it to be wrong, I think is less than 1 per cent, And, therefore, when you start to narrow that down to that extend, we are today as a Parliament—and we should be proud about it—providing law enforcement with yet another tool for them to successfully detect and prosecute criminal activity, and it is not only limited to the most horrendous of sexual offences, which we abhor and we detest and we want to be able to successfully prosecute. But just by persons leaving at a crime scene, a part of their DNA sample—a hair particle, a sweat molecule as picked up—anything like that, we are no narrowing the opportunity for them to escape the net of being caught by law enforcement and successfully prosecuted, and that is something we should be proud of today.

My friend, the Member for Caroni Central, asked about the Custodian. When you go to the parent Act and you go to section 8 of the parent Act, you will see that it defines who the Custodian is to be—that there is to be a deputy

custodian individual, but then also that they are to be properly staffed, et cetera. As you will be aware, being an experienced legislator, it is about delegation of duties, et cetera, all of that is provided for. So what we are doing, is we are saying similar to the public procurement, that you have a public procurement regulator, the Custodian is equivalent, there will be a deputy, et cetera and, finally, we have appointed somebody—[Crosstalk] correct—and that person is accountable and, finally, we have appointed somebody so they can get on with it. For them to be able to use DNA, these Regulations are necessary.

When you talk about at 3(2):

“The Custodian shall at least once a year conduct an on-site visit”

That is the bare minimum. Of course, it is not expected that the Custodian will only conduct an on-site visit once a year, but that is the bare minimum. We would expect that to be carried out throughout the year on an on-going basis.

You talked about data being entered into the databank and being accurately loaded. You would accept that it becomes very difficult, through the use of language, to essentially pinpoint what we mean by “accurately loaded” but as you would see further on in the Regulations, we talk about best in class, and utilizing best in class. Again, that is the intention. That is what is being done, that the facilities and the technology would be best in class and that they would follow. As you would be aware, you would have certain policies and procedures then put in place as they start to build this out.

So the Custodian, the standards are set out at regulation 4 and it says that:

“The Custodian shall, from time to time, set the minimum standards, in accordance with international best practices, for entry onto and removal of data from the Databank, which shall be published in the *Gazette*.”

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So we have set out in the Regulations that listen, your minimum standard is best in class and that is your minimum, and then they have to publish it in the *Gazette*, so it allows for transparency. Persons, like the Member for Caroni Central, who have an area of expertise can then look at it and say, “Well, hold on. This is not best in class policy. This is how you can improve it, et cetera.” But what we are doing, via the Regulations, is we are setting the minimum standard and saying, “Look, go out get this thing done, implement it.” We are not bug bearing them and narrowing them, and ring-fencing them by trying to be too specific in the Regulations.

We go on at 4(2) to say that:

“...the Custodian sets standards under this regulation, such standard shall be observed for—

- (a) the entry and removal of data in the Databank;
- (b) reinstatement, suspension and amendment of DNA profiles in the Databank;
- (c) searching the Databank.”

So exactly as I just said, we now have to have proper policies and procedures for the further implementation.

Regulation 5 talks about the preservation of the integrity in the databank, and then regulation 6, the information technology and says that:

“The Custodian shall—

- (a) develop or cause to be developed the Information Technology systems necessary for administration of the Databank.”

The Custodian is also now going to be held:

- “(b) be responsible for monitoring and improving software for the delivery of Custodian services...”

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So we are trying to build in the accountability and transparency, because as we all recognize, the technology will improve and get better over time and we are telling the Custodian look: “Look, you are responsible for that. Make sure that at any given point in time that you are utilizing what is available and the best that is available.”

Part III, as you said, deals with the taking of samples, and this is where we introduce now, a qualified person. Because, of course, it must be the protection of accused persons, that it is not just anybody who could come and take a sample, put it into the chain of custody, and then something goes awry. No. Only qualified persons would be allowed to do that, so:

“...a qualified person to take the sample, as soon as practicable, after the complainant reported the alleged commission of a sexual offence.”

So that is very, very specific.

So when someone has made an allegation to law enforcement about a sexual offence being committed, the Regulations now say, look, a qualified person must now go as soon as is practicable. I hear what you say about, well, the usage of “as soon as is practicable”, what does that mean? Is it too broad? Is it too wide? Do we narrow it down? Should it be within 24 hours? Should it be within 12 hours, 48 hours, et cetera? But I think let us see how this thing evolves. Let us, at least, get it up and running, and then when we have data to look at, we can then come back, if necessary, and look at confining it or broadening it.

It talks about allowing for reference samples to be taken in a private room as far as is practicable in a private hospital, or health care facility, that is obviously being done to ensure the privacy of both the accused and the complainant.

“A qualified person who takes a reference sample or crime scene

material...shall forward the reference sample or crime scene material to the Forensic Science Centre together with a copy of the entry in the DNA Record.”

That is the completion of the chain of custody and making sure that at every given point in time, when a sample is taken, that we could track and trace this thing all the way to the Forensic Science Centre.

I thought that regulation 9 was also very important. It is the taking of a sample from a person admitted to a private hospital or health care facility and says:

“Where a person who is suspected, accused or convicted of an offence is admitted to a private hospital or health care facility and a non-reference sample is required to be taken from the person”—again—“a qualified person shall take the reference sample as soon as practicable after the person is admitted and before the person is discharged from the private hospital or health care facility.”

The real benefit of this DNA database comes with expansion. So the more samples that we put into the database, is the more opportunity there is for the solving of crime after the detection of a crime. In other words, the wider the spectrum and the larger the database of DNA samples, what it does is it statistically narrows and creates the opportunity for a successful prosecution of crime, that when you hold someone or you now pick up DNA from a crime scene—the larger and the wider the database—when you insert it into that database, there is more opportunity for you now to narrow down who may have been the perpetrator, et cetera, and to assist in the successful prosecution of a crime.

Chain of custody is quite properly set out at regulation 10, where it talks about taking a reference sample or crime scene material from a person in prison,

and this really sets out how it is done.

“Where a person who is detained at a prison for a first time or a subsequent time and a reference sample has not been taken from him, a qualified person at the prison shall take a non-intimate sample as soon as practicable.”

And it then talks about how that sample must now be walked through, all the way, by the qualified person to the Forensic Science Centre to, of course, narrow the opportunity as the Member for Caroni East had suggested, a short while ago, for anyone to interfere in the process.

Having said that—and I am sure the Member for Point Fortin, the Minister of National Security, will talk about it—I think the procurement process that was utilized in us implementing this DNA system should be applauded. And I hope—if he is not, I ask that he gives the exact specifics at how we went from saving this country, I think it is tens of millions and brought down the cost of these DNA samples, et cetera. I am seeing him saying that he will provide such information. I would like to thank those who worked so hard at the Ministry of National Security and the other offices to ensure that we get value for money in implementation of this system.

Madam Speaker, when one looks at now Part IV, an analysis, again, it is dealing with a very important part in the whole chain of dealing with DNA and it says at regulation 13:

“...where the Forensic Science Centre receives a reference sample, the Director of the Forensic Science Centre shall ensure that the...sample is analysed and a DNA profile generated as soon as possible by the Forensic Science Centre or an approved laboratory.”

Which is exactly what I was just talking about, building out our database. And the

broader, the wider, the more populated the database, the better the whole system begins to work.

Part V deals with the regulation and how searches of the Databank are to be carried out. And, again, we have gone broader, but I think striking the right balance that it is not too broad and we have provided some parameters for those who are going to utilize the system. So Part V talks about searches of the Databank and:

“The Custodian shall, where a DNA profile from a reference sample is being loaded unto the Databank, search the Databank...”

To ensure that there is no duplicity and no matches. So we are not over-populating with duplicitous samples, the Databank, and it should immediately suggest to us and say, well hold on, this sample is already married and there is an individual who has this DNA sample here.

Part VI is dealing with records. Of course, one of the most important areas that we need to protect as regulators, and I think it is properly achieved here in these regulations, is the protection and the creation of records—the creation of records and thereafter the protection of these records, to ensure that it is consistent and that it is not manipulated or polluted in any manner whatsoever, and they say that the DNA record shall contain the data elements that I read out a short while ago at Schedule 2, because what you have to do now is, you have to ensure that when you go to the DNA records you are able to get sufficient information to marry and match.

Part VII of the Regulations talks about the storage, and this is an area that my friend, the Member for Caroni Central, was pinpointing or rather saying, look, he wants to ensure that we have looked at and ensure that there is going to be proper storage. This talks about:

“In every place where a reference sample is likely to be taken or crime scene material is likely to be routinely retrieved or carried—

- (a) there shall be assigned a secure room or receptacle for the storage of the reference sample and crime scene material before they are transported to the Forensic Science Centre or approved laboratory; and
- (b) the reference sample and the crime scene material shall conform to the storage guidelines.”—

So again, you will see that we will come with the guidelines. So again, you will see that we will come with the guidelines again, consistent with the policies and procedures, to ensure that that is not—we have held it as tightly as possible, so it cannot be manipulated from taking it to entering it into the data.

Then Part VIII goes to transport and how it should be transported. And, again, there is going to be conformity with guidelines to be issued by the Minister and published in the *Gazette* because one can foresee that transportation is a very important element in ensuring the consistent, secure DNA data being kept.

Part IX deals with:

“Privacy Standards, Security and Access:

Where a DNA profile is generated by the Forensic Science Centre the Director of the Forensic Science Centre shall, where the profile is capable of being uploaded unto the Databank, and in accordance with the standards established under regulation 4, forward the profile to the Custodian.”

So, again, it is making sure that the Custodian has the information, that the information is being properly stored at the Forensic Science Centre. And then you get to disclosure, because of course not any and everyone should have access to

this important storage of DNA.

Regulation 28 talks about disclosure and says:

“Where the Custodian is authorized to disclose DNA data stored on the Databank, the disclosure shall be made either upon request or by Order of the Court.”

And, of course, that request must be law enforcement or the court asking for such DNA to be provided, and that is stated expressly at regulation 28(2):

“Where a request to the Custodian for a disclosure under subregulation (1) is made by—

- (a) a police officer acting in the course of a criminal investigation or criminal proceeding;
- (b) a person from whom a sample was taken or his representative;
- or
- (c) a government agency or an educational institution approved by the Minister...”

So, presumably, that will be somewhere in the medical field, it shall be made and then there are forms provided.

Madam Speaker, that in a nutshell is what is encapsulated in these Regulations. Again, to put it in context, these Regulations are necessary for the first time implementation and use of DNA in fighting crime, in detecting crime and in prosecuting crime in Trinidad and Tobago. And, certainly, I would like to say that this is long overdue and I am happy. Today is, indeed, a momentous day because we can finally get on with its use. And on behalf of the constituents of Port of Spain North/St. Ann's West, I would like to thank those who have worked so hard and for so long to make this day a reality in Trinidad and Tobago.

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I do not think, as citizens, we should try to water it down or attack it unnecessarily, but rather we should all stand here in unison and say, thank you, as citizens of Trinidad and Tobago, that we can finally move forward with the utilization of DNA in the fight against crime because we all want to successfully fight and prosecute crime in Trinidad and Tobago.

Madam Speaker, with those few words, I thank you for the opportunity to contribute. [*Desk thumping*]

Dr. Lackram Bodoë (*Fyzabad*): Thank you very much, Madam Speaker, for the opportunity to speak on the Administration of Justice (Deoxyribonucleic Acid) Regulations, commonly called DNA, but I think it is important enough that we have the pronunciation correct, because it really is the basis of life. I want to congratulate my colleague, the Member for Caroni Central [*Desk thumping*] for raising some of what I believe to be some pertinent points.

Madam Speaker, I also want—[*Crosstalk*]—that is all right. I am not disturbed—to take note of the fact that amendments are possible and consideration will be given to that, because I think it is very important that that facility be afforded us. I also want to take note of the fact that between the proclamation of the parent Bill in 2012, and now that we are here to discuss these Regulations that the opportunity was taken to expand and to allow a broader base for these Regulations. I think that is very important.

My colleague, the Member for Port of Spain North/St. Ann's West, made two points which I think are very important, as we go forward trying to make the best regulations possible, and I think the chain of custody is extremely important, and I would speak to a few points that would be in important in relation to that. The state-of-the-art facility, I think it is very, very important because DNA is

something that has to be done properly for us to get the correct results.

But, Madam Speaker, it will be remiss of me to discuss and to talk about such an important Bill and, especially DNA, without giving a very brief history about what DNA really is. If we look back at 1928, 90 years ago, a scientist by the name of Griffith, what he did is that—and Minister of Health would know the name pneumococci, which is a bacteria that causes pneumonia, but there are two forms. There is one form that can actually be very innocent and there is one form that can kill. It is called non-virulent form and a virulent form. And what the scientist actually did was that he took a mixture of the innocent form of the bacteria, added to the virulent form, and what he found is that the one that was innocent was actually converted into a virulent form and, therefore, the scientist realized the nucleic acid was the basis of transmission of information from one organism to the other. [*Crosstalk and laughter*]

Now, in 1953, it is also very important that we talk about Watson and Crick, and the Minister is well informed, Watson and Crick were the scientists in 1953, some 55 years ago, who unravelled the structure of DNA and found that it was a double-helical structure of something called amino acids, and amino acids are very important because they are the building blocks of all nature.

So building on that, Madam Speaker, if you will permit me, I want to relate a story, and this story is very important—actually, it is reality. It is not really a story—because this actually illustrates the strengths of DNA and it also illustrates the pitfalls. This came about in 1984 when a geneticist from England, Leicester, by the name of Alec Jeffreys—he is now Sir, because of the work that he has done. He was subsequently knighted in 1994. But on the 10th of September, 1984, he actually discovered for the first time in the world, the first DNA fingerprinting

from experiments that he did. And just to ensure that he did the right thing, he actually created the first DNA lab in the world, because what he did in his own lab is he went around—he cut himself. He allowed drops of blood to fall about in the lab and check again to ensure that those samples were valid and they were reproducible. So that is very, very important.

But, more than that, what happened is that from the DNA fingerprint in 1987/1988, he was able to create what is called the DNA profile which is what we are talking about in these Regulations. Very, very, interestingly, Madam Speaker, the importance of this is that in that year, the Leicestershire police who were actually investigating the rape and murder of two school girls—and permit me to quote, Madam Speaker—Lynda Mann and Dawn Ashworth, who lived in a village in Leicester. Very interestingly, a local resident by the name of Richard Buckland had confessed to the crime. He had confessed to the crime and went to the police.

So the police came to the scientist. They came to Mr. Jeffreys and said, “Listen, this gentleman has confessed to the rape and murder of one of these girls, but we are convinced, we are certain that he is responsible for both. So can you use these DNA sample technique as you just discovered and prove to us that he is responsible for both murders.” So Mr. Jeffreys went ahead and he took the DNA, he did the analysis. But lo and behold, Madam Speaker, what he found is that the gentleman, Richard Buckland, who had confessed to the crime, it was not his DNA at all. So, you know, Madam Speaker, the point about that and it raises the point, first of all, was Mr. Buckland coerced into making a confession? And this speaks to the reality of what can happen with DNA evidence.

But beyond that, what transpired, Madam Speaker, is that in a search for the real perpetrator of the crime, it was very interesting, and we talk about searching

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the DNA bank. So what the police in England did is that they went around the village and they convinced 14,000 young men around who could have been at the scene of the crime to give samples of their DNA which they did. Very interestingly, none of them matched with the victims but, one night in a pub, a local man admitted to his friends that he had provided blood on behalf of a friend whose name was Colin Pitchfork. So it shows you here the pitfalls, Madam Speaker, because they did not discover the killer in the 14,000 examples, simply because the man who was guilty got a friend to give a sample.

So, you know, as we go forward speaking about DNA and all of this, it is very important that there are pitfalls that we have to guard against and we have to be extremely careful about in terms of how we go forward with the Regulations. And, therefore, we cannot be too cautious in terms of making sure that we get these regulations very right, very correct. I put forward those examples, Madam Speaker, simply to illustrate that there are many, many pitfalls involved.

So DNA, indeed, is the blueprint of life, because it gives the message from generation to generation in terms of propagating life, but it is also a marker of life, and by that I mean, Madam Speaker, it is very important and, again, I said a marker of life, because again it can be subject to abuse. It is a marker of life because you could have been at a scene six months ago and your DNA will be left there, and then six months later a crime is committed and a sample taken from that scene could produce your DNA.

Madam Speaker: Member, I take it you mean one. [*Laughter*]

Dr. L. Bodoë: Just an example, Madam. Thank you. But I am just making again, a point. So, again, we have to be very, very, cautions.

So the other important fact about DNA sampling, Madam Speaker, is that

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they carry very important information of what we call our traits and our possible susceptibility to disease. In other words, a DNA sample can predict certain things. If it gets into the wrong hands, Madam Speaker, it can prejudice an individual's chance of getting employment, of getting visas, for example, and even of getting health and life insurance. So it is very, very important that the custody of these samples are secured.

I do want to point out though, Madam Speaker, that part of the DNA molecule that is used of fingerprinting and profiling, generally does not carry the genetic information. In fact, it is termed "junk DNA" because it is really a portion of the DNA that is between what you call the genes which carry the information, but it does not mean that someone who gets your sample cannot now go on to do a further analysis and get that information.

So, again, the type of analysis that is done, the security is very, very important. I just make that point, because indeed a DNA profile sample is really our own personal barcode. We walk around with our barcode on our fingers. We talk about the buccal smears in the Regulations which is the cheeks and it is also present in the root of the hair, in our blood samples and so on.

And, again, as we speak about blood sampling, I just want to make the point where you can have pitfalls. For example, Madam Speaker, if one has had what is called a bone marrow transfusion and you took a sample from that person, you will find two types of DNA. You will find the person's original DNA, but you could also find the DNA of the transfused blood and that could create some confusion if a proper history is not taken. Of course, the Minister of Health, he will understand that.

So, you know, while we know it has a tremendous amount—it is a powerful

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weapon in the fight against crime, I also want to point out to my colleagues here that there is also the tremendous potential for abuse if its use is not regulated properly [*Desk thumping*] and this is why these Regulations are extremely, extremely important. And I agree with my three colleagues who have spoken here that it is very, very important to get it right and to get it right the first time.

So, Madam Speaker, these pitfalls are very important to avoid because they can make a difference between, you know, convicting an innocent citizen as allowing too a guilty person to walk free.

Madam Speaker: Hon. Member for Fyzabad, Members, it is now 4.30 p.m. We shall take the suspension now and we shall resume at 5.00 p.m.

4.30 p.m.: *Sitting suspended.*

5.00 p.m.: *Sitting resumed.*

Madam Speaker: Member for Fyzabad, you have 19 minutes and 10 seconds left of speaking time. [*Desk thumping*]

Dr. L. Bodoë: Thank you, Madam Speaker. So, Madam Speaker, having gone into some of the history, and so on, with DNA, I would just like now to refer to the Regulations and to deal with some of the issues in the Regulations. In particular, if I can look at Part II, the Roles and Responsibilities of the Custodian, and I know my colleague, the Member for Caroni Central would have raised some issues. And the reason why I think it is important, Madam Speaker, is both the parent legislation and the Regulations give a tremendous amount of power and responsibility to the Custodian, and while that might be so, and I understand the Custodian has been appointed, I think it might give some measure of comfort to us in this House if perhaps the Government can, you know, specify maybe the qualifications of the Custodian that was appointed and the process that was used, I

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think that might provide some comfort for us in agreeing to have so much power given to the Custodian.

I also want to make a point in terms of the visit at least once a year, I understand that is a minimum, and, of course, we expect that that will happen more frequently. And in addition to the visits to the Forensic Science Centre, I also ask the question about what about other visits to other approved laboratories, what kind of oversight will be taking place in terms of the visits to other approved laboratories, Madam Speaker. In section 3(3) we speak to documentation generated from the Forensic Science Centre, and the question in my mind is whether the Forensic Science Centre, as currently constituted, is an internationally accredited laboratory, and if that is so then we would want to know, but if not, is it being approved by this legislation? So I think we have to be aware of that. The other question, of course, speaks to the approved laboratories, and the First Schedule of the parent Act gives four accrediting bodies, which are reputable bodies internationally, the UK, the US, and so on; Canadian bodies, and so on, but the question really, again, that I am sure we would be interested in would be what will be the process for engaging these laboratories. And, more importantly, in terms of the engagement process, the time frame for results, because the issue of getting timely results was raised. So whether we can know, Madam Speaker, in terms of the time frame for these results.

There is also the issue of course of the impact on foreign exchange, and the other question of course would be whether the Government has found any local laboratories that are so qualified and accredited that can be so utilized. I think that would provide some very important information for us. I just want to draw attention to section 4. I am still with Part II on page 2 of the Regulations, and I am

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looking at section 4(1) and section 4(3). Now, I can take note of the fact that the Attorney General has indicated the case in the UK where the court decided there was appropriate and adequate—to delegate these powers to an appointed custodian, and that may be so, but I still think that there are some issues that need to be raised in terms of that. I would want to draw to the attention of the Minister in this case, the European Network of Forensic Science Institutes. There is a DNA working group in April 2017—very up-to-date, Madam Speaker—and it is a document that I am sure can provide very useful information, if it has not already been referred to by those responsible for making these standards. And I will say this, Madam Speaker, because we have spoken here about the accuracy and the reliability of DNA, but one needs to understand that for us to get that kind of accuracy the conditions have to be right.

I mean, DNA is a powerful tool. I mean, it can enhance the possibility of solving crimes, it can enhance the number of crimes that are solved, the speed at which crimes are solved, the time that police can spend on other work, for example, by the time that they can gain, and, of course, the possibility, very important, to link unsolved crimes by searching a database. So in view of that, Madam Speaker, I just wanted to raise a few points for the attention of the Minister, and this is something that perhaps can provide a little guidance for Members, but also can educate the public in terms of what to expect. So if at the top of page 3 under the standards under sub-regulation, and I know that these standards are going to come and they are going to be gazetted, and that is important, but I also want us to look in terms of if we deal with the inclusion criteria, for example, we talk about the crime-related stains, the persons; we talked about convicted persons, suspects, arrestees, volunteers, and so on, victims, I am

not certain whether the parent legislation caters for missing persons, Minister. That is something perhaps you may want to address.

We have had quite a bit of talk about the accuracy again, and I want to make the point that the accuracy of the match depends on the quality of the test that you do, and it is very important here that we talk about the choice and the number, of what we call the loci. In other words, there are certain standards, for example, in the UK they take 10 what is called loci. So it is points in the DNA that they use to measure. In the US, for example, its standard is 13. I think it has been increased to 17, and that is important because the more you measure the more accurate the sample can be. So perhaps the Minister may want to give us an idea of where we are, whether we have made a choice in terms of selecting those loci. It speaks to the—I am talking here about certain inclusion criteria which should include the supplier of the profiles, the DNA kits, the so-called DNA kits, whether these labs are what we call ISO 17025 certified, and that is something that we want to assure that that is the case and it can match international standards.

There is also the issue of mixed profiles, how it is going to be dealt with, whether those will be entered into the database. That is a situation where you can have two or more persons who have drunk from the same glass or have smoked the same cigarette, and you can have mixed DNA samples and how we deal with that. So I throw that out. And, of course, there is also the issue of whether they are going to engage in the, you know, in the Y chromosome markers, and what is called, mitochondrial DNA. The Y chromosome tells you about male and the mitochondrial DNA tells you about female. It is a little bit more advanced so, again, it will be useful to know if the tests and the labs that we are engaging would be looking at all of these issues. With regards to the deletion criteria—well, there

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are a few issues that we need to be concerned with, but usually it is the issue of duplication where you would eliminate, you know, a profile from the bank.

Now, the matching rules are very, very important. We talk about the matching rules in (b), and, Minister, perhaps you may want to give us some indication. I know it is highly technical, but really in terms of the definition of the match. And perhaps we can talk about what is called, the search modes, because there are three search modes. There is high, moderate and low stringency, and, again, in terms of your contracting process in terms of who you engage, you have to be assured of which mode you are getting. In other words, you want to know what product you are getting, and that will determine how accurate your match is going to be. The other issue of course here is what is called, match validation, in terms of when you match a DNA whether you are going to reconfirm by a separate sample that this in fact is the person whose DNA you have taken, because sometimes you have to do it as a separate matching.

The data integrity control measures, extremely important. One of the important things that comes across in terms of data integrity control is that you really have to have a system where you can have regular backups. So in case you have, you know, loss of data from, let us say, some disaster that you have a backup system in place, I am certain that this would have been thought about and addressed, but, again, we will want some assurances to see whether that is taking place. There is something called, case review guidelines. The reason for that is that sometimes you can have a situation where a person might contest that that in fact is his or her DNA, and there has to be a process in place to review that and to look at the guidelines. What I would suggestion, Madam Speaker, and this has been done in many countries, including the UK and South Africa, is because, you know, once

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you create a DNA databank there are lots of implications in terms of, not only of crime but genetics. And, again, Minister, I will speak with this keeping in mind that later on in the Regulations I see that you have the responsibility for granting permission to those who might want to engage in research, and research is commendable. I think it is very important, but how that information is gathered is also extremely important.

So, Minister, I would want to suggest what you may want to consider what would be like a dedicated oversight and ethics board, and that board can be responsible to oversee maybe the audits that come out of the DNA bank, and also to give you some advice in terms of the ethics of the research that is going to be conducted, and, you know, take the responsibility off your shoulder, have professional advice from that point of view. Madam Speaker, I move on to section 6 with regards to information technology, and just to say whether—now there are some countries that would develop their own software. There are about 60 countries in the world that have software programmes. Many have developed their own, but there are also countries where you already have developed programmes, so, again, maybe we can get some idea of whether we are going to allow our centre to develop its own software programme or whether we are going to obtain from a developer. CODIS is one of the common ones widely used. There is also one called STR lab from South Africa, and, of course, there is one from the UK.

With regard to section 6, and in terms of the encryption of data, one of the other countries, in particular, one of the states in the US, Rhode Island, has actually written into the regulations the issue of encryption codes, and put it into their regulations to ensure that the data is secure. The other issue, of course, Minister, is that there are certain countries now that are actually using what is called a cloud-

based system. That whole issue, you know, we have to look at that as to whether we are in a position, you know, as a country to allow that, because we know the kind of breaches that can take place on the cloud. But those are some of the systems that are developing and we have to, you know, anticipate whether we will be in that situation and to deal with it.

I want to move on to Part IV and section 13, and this speaks to—actually, before I move on to Part IV, let me just look at section 7, and section 7 really speaks to the taking of samples. It is quite a bit in the taking of samples. It seems to have been covered comprehensively. And we speak about the qualified person taking the samples, and the parent legislation speaks about a registered medical practitioner and certain categories of nurses registered under the Nurses and Midwives Act. I want to throw out the suggestion because medical practitioners are sometimes busy to actually do things for themselves but they can supervise, and I want to throw out what has been done in Jamaica where they have allowed, AG, they have allowed qualified laboratory technicians to take samples under the supervision of a qualified medical practitioner, and adding that to the limb can perhaps decrease, you know, the time, and so on, in terms of taking the sample. So it is just something that I am throwing out that could be considered.

So section 13 we talk about the taking of the samples, and I want to go on to Part IV. I am on page 7 with regards to section 13, and the analysis by whom and what method. I know that we have already addressed some of the issues, and, again, I want to support my colleague, the Member Caroni Central, in terms of we saying here that the DNA profile should be generated as soon as possible. I urge the Government to perhaps look, you know, at putting some definition to that, because that can be, you know, the cog in the wheel that can slow down the whole

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process. So perhaps we can look at how we can deal with that. Now, in terms of the analysis, and, again, Minister you might be aware of this, there are some of the literature and some of the labs are actually using an older method for DNA analysis, and that method is called, RFLP, which is Restriction Fragment Length Polymorphism. That is no longer acceptable in certain courts of law. It is also important that we use an up-to-date method. There is a method called the STR or Short Tandem Repeat technology, and the reason why it is important to be up-to-date is because, remember, we are going to have a database that we are hoping we will be able to be compatible internationally. And if it is that our database is behind, so to speak, then we will not be able to link up and get valuable information with other international countries.

Madam Speaker, I know we have spoken about this, it has come across, but I just want to clarify again, I think it is very important for us here, and maybe in the minds of the population—*[Interruption]*

Mr. Deyalsingh: Could you give way, hon. Member?

Dr. L. Bodoë: Sure. Sure, Minister.

Mr. Deyalsingh: Thank you for giving way, hon. Member. You had raised the issue of what is a qualified person, if I could just refer to you to the parent Act, it is pellucidly clear in the parent Act. So I think that could bring you some degree of comfort—*[Crosstalk]* No, what is a qualified person. *[Crosstalk]*

Dr. L. Bodoë: Thank you, Minister. No, no, I know, but what I was suggesting in addition to that, that we can add another category, you know, that you can consider in terms of the technicians who can take the samples. It will just ease the process.

Mr. Deyalsingh: No, well you cannot, we are not amending the Act today.

Dr. L. Bodoë: Okay.

Mr. Deyalsingh: We are dealing with the Regulations.

Dr. L. Bodoë: All right, I hear you. Right. Now, one of the issues I want to raise as well, Madam Speaker, and this may or may not have been dealt with in the parent Act, but I do not remember it being dealt with, and this is the issue of what happens to a sample after the profile is created. Now, we have to distinguish here that we are taking a sample, the sample could be the hair, the blood, the skin cells, and so on. That is the sample. The sample is analyzed, the DNA is removed from that tissue, and then that profile is created. So the profile is really a computer generation. It is really a number on the computer that is the profile, but the sample remains, so the whole issue of really what we do with a sample remains.

Section 26 of the parent Act speaks to the removal of samples, but there is no way specific that speaks to how the sample will be destroyed and the conditions for ensuring that that sample is destroyed after it is no longer required. There are several parts of section 26 in the parent legislation that speaks to when you can destroy a sample. So I think maybe some consideration should be given to perhaps looking at specifying the process and making sure that the samples are destroyed properly and adequately. And, again, the whole issue arises there, because if that falls into the wrong hands it can be used for the wrong reasons, and it is in that regard I make that point, Madam Speaker. And, of course, if we have a very transparent and clearly understood process for the destruction of tissue samples then that will relieve any sort of anxiety that will be in the minds of the population, because, you know, there is always this anxiety about your DNA sample and whether it is secure, and where it is going to go.

I have referred earlier on to the part about DNA research, and that would take me to section 28, where it speaks to section 28(2)(c), where it speaks to:

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“a government agency or an educational institution approved by the Minister for the sole purpose of research, provided that no readily identifiable personal information is disclosed;”

Again, we seem to have fairly good safeguards there, but the questions will be asked, you know, what would be the criteria for allowing an institution to access the DNA material, and, again, this is where I had suggested that perhaps we can look at the formation of an oversight body, an ethics committee, for example.

[*Interruption*]

Madam Speaker: Hon. Member for Fyzabad, your original speaking time is now spent. You are entitled to 15 more minutes if you intend to.

Dr. L. Bodoë: Yes, Madam Speaker.

Madam Speaker: You may proceed.

Dr. L. Bodoë: Now, I want to just again refer to the storage of reference samples and the crime scene materials, and if you may permit me to go back to section 24(b) of the Regulations which speaks to the—and 24(b) says:

“the reference sample and the crime scene material shall conform to the storage guidelines issued by the Minister and published in the *Gazette*;”

and I am wondering, Minister, whether you may not be in a position perhaps to spell out that and give us an idea, you know, of what the conditions might be, because, again, we know that if samples are not stored properly that that can impact on the result and that can have a disastrous effect in court. I understand it will be gazetted, the question is really when these standards are already gazetted whether they can be improved or changed, and maybe you might want to address that.

The other issue is the issue of transport, and this is dealt with in Part VIII of

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the Regulations, and the issue of allowing seven days for transport was raised. Now, the problem with the seven days or any length of time is not so much the deterioration of a sample. If it is stored properly the thing with DNA, you know, it is tough, it can withstand certain conditions once it is stored properly. But the issue I have with allowing the seven days where you have collected a sample and then you have to transport it to the Forensic Science Centre or get it to an accredited lab, is the whole issue of whether a sample can be tampered with. There had been many cases, you know, where access has been, you know, by whatever means, so that samples can be exchanged or contaminated so the results do not reflect the original sample, and perhaps the Minister may want to give some assurance as to how this is going to be prevented. I can understand the seven days being important if you want to ship a sample perhaps from Trinidad to the UK or the US. But the security in terms of the storage and the transport of the sample, so the transport security is important. Do we plan to use couriers, for example, Minister? And what safeguards, you know, will be put in place to ensure that samples are not tampered and exchanged somewhere along the highway? You know, that is something that in a country like ours we have to be extremely, extremely careful about. So I just wanted to raise that point.

There are several other issues which I am sure that my colleagues will deal with, Madam Speaker, but, you know, in conclusion I just want to say that, you know, any individual with a record on a DNA database may also be vulnerable to being falsely implicated in a crime by the planting of evidence by corrupt police officers, [*Desk thumping*] by powerful government agencies, and even criminals can infiltrate a system. So the whole issue of security is very, very important, and, of course, if this happens it can result in a miscarriage of justice, a stressful police

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enquiry, and, you know, perhaps some pretrial detention. So whilst we would all agree that DNA sampling has the potential to intrude, it also has the potential to intrude into an individual's privacy in many ways in terms of bodily taking a sample, genetically you have access to very sensitive information that I alluded to earlier, information that can be used against you in certain ways. It can also be used to predict and tell your behaviour, where you go, you know, what you do, and it can also be used to trace the family, and sometimes that could be used in the wrong way. So, Madam Speaker, as I close I want to urge the Government to educate the public extensively on these measures, and I urge this House not to abandon caution in the pursuit of haste. I thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: The Minister of National Security. [*Desk thumping*]

The Minister of National Security (Hon. Maj. Gen. Edmund Dillon): Thank you very much, Madam Speaker. Madam Speaker, thank you very much for the opportunity to contribute to the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018. These Regulations, I believe, Madam Speaker, are very timely and important, but, first, allow me to thank the Member for Fyzabad for his very—I think very sterling contribution, again, given his background. [*Desk thumping*] Given his background, no doubt, he has some very technical knowledge about the whole question of DNA. So I want to thank him very much for his contribution as he touched on the history of DNAs. It is very important for us to see where the actual concept came from, and an understanding of where we are going in the future.

He also touched on the whole question of the area of the chain of custody, which is outlined in section 7, but just to give him some assurance that the whole question

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of the chain of custody is well laid out. And with respect to the question of the database, the database is in fact fully computerized with the requisite security encryption technology. Right. The DNA record that police and qualified persons, they are also qualified in those various areas. The DNA register at the Forensic Science Centre is also computerized. The databank computer is a stand-alone computer so that it does not share any information with any other system, although there is a backup server, but that again is also isolated. There is a buffer server to security check, the electronic profile submission before loading in the databank. So there is a built-in again security system to ensure that these do not happen. There is a full functional backup computer system, and, again, to reassure you, Member for Fyzabad, the custodian has developed the standards that address inclusion standards, entry standards, matching standards, performance standards. And we are using a sort of strength analysis so that a number of building measures are put in place to ensure that the chain of custody, in fact, they are quite separated at each juncture to ensure that there is in fact no set of collaboration between the various stages as the chain of custody goes on. So that is just to reassure you.

I also want to let you know I took on board your suggestion in terms of the why we are going to put in place a committee as a buffer between the Minister, and I took on board the question of the ethics board. I think that is a very important contribution, because of the nature of what we are treating with it is important to put that ethnic's component, so I thank you very much for that. Madam Speaker, my contribution touches really on what does this regulation do for crime and violence and security in Trinidad and Tobago, and as the Minister of National Security I believe, and I certainly believe that the Regulations, as late as it may be, but I think while it may be long overdue, I think we must concentrate not too much

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on the past right now but what can this regulation do for us in the future going forward. One can recall that the Ministry of National Security, in its first ever strategic plan for 2018 for 2023, had outlined five strategic imperatives, and those were prediction, deterrence, detection, prosecution and rehabilitation. One can see at the out front that these Regulations, once implemented will touch on three of these strategic imperatives, deterrence for sure, detection and prosecution.

Madam Speaker, the whole question of crime and violence in Trinidad and Tobago is multidimensional, and therefore I have always stated that in order to achieve any effectiveness, any measures to treat with these issues must also be multidimensional in scope and intent. So we have seen a two-pronged approach being done through the—and I want to thank the Attorney General for his legislative approach in so dealing with crime and criminality in Trinidad and Tobago, and, of course, the operational approach from the Ministry of National Security and its agencies. So that today we are doing another, what we call, of the many of choices available to us. Within the recent time, we have seen in this House the passage of the Anti-Gang Bill, and I want to ask the Members on the other side, just as they supported the Anti-Gang Bill as one such measure to deal with crime and criminality in Trinidad and Tobago, also support these Regulations as another measure to treat with the issues of crime and criminality. And sometimes, Madam Speaker, these two, they are necessary but they are not sufficient. There are other measures that must be put in place, because, as I said, crime, criminality and violence are multidimensional, so there are a number of initiatives that must be put in place to treat with these issues. So, today, we are dealing with another one, another such measure, the DNA Regulations. Madam Speaker, what is the purpose of these DNA Regulations?

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Madam Speaker, I ask you to allow me under Standing Order 44(1), because of the technical nature of this, to consult with my notes ever so often. What is the purpose of the DNA regulations? They are intended to regulate the manner that deoxyribonucleic acid is collected, transported, stored and entered in the DNA databank. It is also to provide for the roles and responsibilities of the custodians in relation to the databank, including the loading of data onto the databank, conducting on site visits to the Forensic Science Centre and accepting DNA profiles and documentations from the Forensic Science Centre and laboratories approved under the Act. The Regulations would also provide for the taking of samples by a qualified person.

Generally the principle of the Regulation is the person who takes the sample is required to forward the sample to the Forensic Science Centre where the copy of the DNA is recorded. So the whole chain of custody and responsibilities are outlined in the Regulations. Again, it is the whole question of implementation that we are treating with that the Regulations speak to.

The Regulations will also provide for searches of the databank by the custodian on the request of the Commissioner of Police, an investigating officer, the Police Complaints Authority or the central authority, and also provide for the records that are required to be kept in relation to DNA samples. The Regulations also provide for the storing of DNA samples and crime scene materials in every place where it is collected and stored before being taken to the Forensic Science Centre, and also with respect to transportation as mentioned a while ago.

When you look at the whole purpose and the intent of these Regulations, it is really to contribute to dealing with crime and criminality, adding value, providing

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the kind of tools that are necessary to give the law enforcement body of Trinidad and Tobago, namely the Trinidad and Tobago Police Service, the ability to increase their detection rate, to increase the deterrence posture and, of course, their prosecution posture.

So what are we treating with right now, Madam Speaker? What is the state of affairs right now as we speak today? Madam Speaker, as of today the 9th of April, we are treating with a situation in Trinidad and Tobago where the murder rate is 142 as we stand, compared to 145 in 2017, but that is no place for glory. It is still too high as far as we are concerned. At 142 it is still too high in 2018.

When we look at the amount of serious reported crimes right now, for 2018 we are roughly 3,112 compared to 3,531 last year. Again, it is still too high, and we therefore must be looking at ways and means to reduce these figures. For the period 1st January to 7th April, 2018, a total of 3,169 persons were arrested and charged. Offences for serious crimes made up approximately 39.5 per cent of this figure, 1,251 out of the 3,169. So, Madam Speaker, when we look at the state of affairs right now, the measures that will be implemented in these Regulations would, in fact, go a long way in assisting the law enforcement entities of Trinidad and Tobago to treat with deterrents, to treat with detection, to treat with prosecution.

The use of DNA evidence in prosecution of criminal cases within Trinidad and Tobago is not new. It has been done before—it has been done before. In fact, the records show that one case as far as 2011 by Justice Malcolm Holdip in the First Assize Court San Fernando, a sexual assault case, a 73-year-old was sentenced to 21 years in jail for raping a 13-year-old which resulted in a child. The DNA evidence proved the child was his. So I am showing that to show that while

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we are debating the Regulations now, DNA has been used successfully in the past in Trinidad and Tobago. So that it is something that has been proven, not only in Trinidad and Tobago, but in other jurisdictions throughout the world. It is an essential tool, given today's technology. It is an important asset, given today's environment, to be used by law enforcement personnel in Trinidad and Tobago.

As it stands right now, according to the records at the Forensic Science Centre, since 2015 there are about nine homicides and four sexual assault cases in court involving DNA, but the outcome so far is not know because they are still there. I believe that with the passing of these Regulations we can see some successful completion of those outstanding matters right now. So the role of these Regulations would certainly go a long way in assisting law enforcement.

Madam Speaker, a number of cases involving DNA are at the embryonic stages, and its use is expected to increase exponentially as we go along. Some of the specified areas that I am sure we will touch on would be specified in the rule of qualified persons in the manner in which samples are taken, especially for the following vulnerable classes of persons: a complainant who is defined in the DNA Act, 2012, as a person against whom all alleged sexual offences have been committed. Secondly, a person who is housed in a child rehabilitation centre is required to have non-intimate reference samples taken by only a qualified person under section 12(1) of the Regulations. The DNA Regulations in section 12(4) also account for the taking of crime scene material at these child rehabilitation centres thereby enhancing the accountability of these centres.

I say this to say, the different areas in which the DNA Regulations would be effective and could be implemented. Accused persons or those convicted of offences who are under the care of personnel at health care facilities or private

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hospital for instance, because notwithstanding their status they may be considered vulnerable and the collection and submission of their DNA is extremely sensitive. So it is in this regard great care has been taken to follow section 13(2) of the DNA Act and the requirement that only qualified persons are involved in this procedure.

The Regulations also set out time frames during which the DNA collection exercise should take place commencing from admission and no later than discharge. In the case of incapable persons who are admitted to a psychiatric hospital, similar safeguards are in place to protect the individuals.

Madam Speaker, improvement of the administration of justice by the early detection, arrest and conviction of offenders can be facilitated by the use of DNA profiles. When we look at serious recorded crime detection rates in Trinidad and Tobago, they were 24 per cent in 2016, 31 per cent in 2017, and we are hovering just around that same kind of 31 per cent in 2018. Again, not sufficient, we need to increase those detection rates, because again it will serve as a deterrent and also aid in prosecution.

We have seen the Commissioner of Police has set up a cold case unit. He has established a cold case unit about two or three years ago, and they have been working assiduously, but again because of the history of those cases, one can understand the importance that the DNA Regulations would bring to bear to assist him in the pursuance of bringing those cases to some kind of conclusion.

The other area of course is the improvement of the management of evidence. Within the Ministry of National Security the commitment to providing the necessary resources under the current administration, these Regulations will facilitate the elimination of the substantial backlog of DNA samples and biological evidence from crime scenes, especially in sexual assault and murder cases. They

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will go a very long way in assisting the Forensic Science Centre and assisting law enforcement agencies. Of course, greater cooperation, where legally applicable, with external law enforcement agencies in identifying fugitives and bringing them to justice will form a part.

Regulation 14 which established that the Forensic Science Centre or an approved laboratory shall ensure that the profile sent to the DNA Custodian does not identify the person of whom the profile relates. This therefore ensures to a great extent that there is no opportunity for the DNA Custodian to record personal information. Again, it touches on the whole question of the chain of custody that I mentioned a while ago, in that whole separation of duties and responsibilities. We look at regulation 15(6)(b), which ensures that the DNA custodian does not receive personal information in relation to an investigation for duplicity under regulation 15(5). Regulation 26(3), where the DNA profiles are forwarded to the DNA Custodian through an encrypted secure network. Regulation 27 which requires a DNA Custodian to safeguard against unauthorized access and, of course, the National Forensic Databank Centre records all authorized attempts to same. So there is again built in safeguards to allay any fears on us and any fear of members of the public. There are built-in safeguards to ensure that this thing is done correctly to ensure evidence reaches where it is supposed to. Regulation 28(5), which requires that no personal information is to be recorded in a report to be sent to a foreign country through the central authority is also enforced.

Notably, Madam Speaker, the above is supplemented by section 29 of the DNA Act which restricts under penalty of law the unauthorized disclosure of information by certain functionaries. Again, another built-in procedure to treat with this.

I merely touched on those areas to show the enforcement of the Regulations and what they will do, to a large extent, in terms of crime and criminality, and I cited a number of different cases.

But what is the impact of the DNA regulations? Several areas of operation will be directly impacted by these regulations which are being treated with today. The prisons, and I know that they have been touched on by some of the speakers before, but I want to touch on them again, because the prisons will form a very important component as we roll out the implementation of the Regulations, because what the Act allows us to do is in fact look at persons who are incarcerated at this point in time. The Regulations will allow for populating the DNA bank with DNA profiles on all persons detained at prison facilities, under section 10(1) of the Regulations, which states, and permit me to read:

“Where a person who is detained at a prison for a first time or a subsequent time and a reference sample has not been taken from him—or her—a qualified person at the prison shall take a non-intimate sample as soon as practicable.”

“(3) The qualified person who takes a reference sample at a prison shall forward the reference sample to the Forensic Science Centre together with a copy of the entry in the DNA record. “

So when we look at the prison situation right now, and you understand that we have roughly 1,517 convicted prisoners right now as of today, and the remandees roughly 2,360, giving us a total of 3,877 persons incarcerated right now, you can see populating the database almost immediately when those regulations are passed. You can start with those who are in prison, who are incarcerated and those who are remanded right now, 3,877 today as we stand. That in itself is building up the

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database of those who have already, to some extent, been convicted, have gone in a life of crime and so on. I am sure down the road we will see it would have some effect on the recidivism rate of course. It will have some effect on the deterrent rate, as we continue to take these samples of persons who are within our prison system.

Madam Speaker, when we look under section 31(a) of the DNA Act of 2012, it states that:

The Commissioner of Prisons shall, in relation to a reference sample or crime scene material taken at the prison, ensure that the record taken of the reference sample or crime scene material is entered into the DNA record kept at the prison.

Provision for the proper handling of crime scene material by qualified persons in the section, builds upon the perspective that the removal from law enforcement and the collection and submission of DNA in certain instances safeguards the public interest and protects law enforcement from abuse of power allegations.

Section 13(1)(c) of the DNA Act, 2012, also provides for the retaking of samples in certain instances, and care would be taken to ensure that there is a proper basis for exercising the power to be taking samples. For ease of convenience, section 13(1)(c) of the Regulations provides that a sample may be taken from a person without his consent, where the person has had a non-intimate sample taken, and that sample has proved to either unsuitable or insufficient for forensic DNA analysis or the sample is lost or destroyed or cannot be used for any other reason.

Madam Speaker, we also looked at Immigration. We looked at Immigration under National Security, and again it was touched on before. But the DNA

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Regulations mandate the Chief Immigration Officer to be given a record of all samples taken at places of detention and ports of entry into Trinidad and Tobago, where such samples are deemed necessary to be taken.

One only has to look at our situation right now in terms of our borders and penetration of our borders, and who comes through Trinidad and Tobago. We have seen within recent times a number of persons coming from Venezuela and other countries, committing crimes in Trinidad and Tobago. Therefore, it is important for us to be given this authority, so the immigration officer can in fact take the DNA samples at those ports of entry of persons visiting our country. So it is appropriate because it gives us again—we know that crime and criminality are certainly not confined to nationals of Trinidad and Tobago, but with people who are in Trinidad and Tobago including non-nationals. And so the Chief Immigration Officer has been given certain kind of authority to take such samples as deemed necessary. These of course would be persons who are detained under the Immigration Act?

Our Immigration Detention Centre right now is in fact—well it has a number of persons who are there right now for a number of different offences, whether coming out of the prison system, whether here illegally or otherwise. So another catchment area where we can take DNA samples of those persons who are in the Immigration Detention Centre, who have been detained under the Immigration Act—rightfully detained under the Immigration Act. So that again, if they are bent on committing crimes in our country we can also match them against our database. It helps us in the wider ambit, not only in terms of direct law enforcement, but also in terms of those who are coming into our country bent on committing crimes and criminality in Trinidad and Tobago.

DNA profiles on nationals deported to Trinidad and Tobago—again, we

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know for a fact that we do have deportees coming in from North America, from USA, from Canada, from the UK who for whatever reasons have been deported from these jurisdictions. Under this Act, the Chief Immigration Officers would be allowed to take samples from those deportees returning to Trinidad and Tobago. Again, populating the database, because not all deportees have committed any sort of serious crimes, but there are those who are coming back bent on committing crimes again. Therefore, once you can capture their DNA on entry, again it gives us the authority to detect, to deter, to prosecute. So very important measure in terms of immigration.

Sometime ago I had the privilege of participating in the launch of the Children's Court in Port of Spain. The south children court was launched the very next day after. I believe that this ground-breaking endeavour is set to revolutionize the way in which juveniles are treated by the police and in our court system. Too many crimes against our children have gone unsolved due to the inability in the past to lend the required technology to detection. I think we shall make meaningful progress in this regard with these Regulations. I think it will assist us tremendously. The DNA Regulations importantly have updated the reference from "juvenile resident facility" to "child rehabilitation centre", in keeping with the Family and Children Division Act, No. 6 of 2016, that was recently proclaimed in full on February 28, 2018.

In addition, Madam Speaker, on the other side of the spectrum, persons in charge of child rehabilitation centres are to ensure that the taking of each reference sample from residents warded in these facilities by qualified persons are recorded. When we look today at the number of young offenders—as of today the 9th of April, there are 22 convicted, and they are referred to as "young offenders" now

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and “child offenders”. There are 22 convicted young offenders. In fact there are 16 young offenders and six child offenders right now in the prison, and there are 65 remandees, giving you a total of 87 young people who are incarcerated right now. Even at that tender age we still have to capture those DNA profiles in order, again, to look down the road. While we do a number of rehabilitation measures and so on, we want to be able to track, we want to be able to have that kind of information in our database in the event that the success of rehabilitation or restoration does not work out, and these young people go into a life of crime, then we have captured their DNA in the database at a very early age. So it also allows the prison commissioner under that.

The other agencies that would benefit from these Regulations under the Ministry of National Security, is in fact the Forensic Science Centre. These Regulations will operationalize the National Forensic DNA Databank Unit, and in preparation for the transferring of accessing of data, the Ministry of National Security’s Information Communication Technology Unit, the ICTU, has developed a secure file transfer protocol for the data loading of profiles from various agencies: the Trinidad and Tobago Police Service, Immigration and prisons. So to answer a question the Member for Fyzabad raised, we have in fact used ICT. We have established a secure file transfer protocol for the data loading of profiles from various agencies. Once approved, these Regulations shall allow for a technical standard to be established which will enable the population of profiles into the DNA databank.

These regulations will allow for minimum standards for the National Forensic DNA Databank to be established as a policy document. This policy will detail the technical requirements for laboratories to participate in the National

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Forensic DNA Databank, as well as global procedures that govern this centre, inclusive of data collections, data loading, data entry, data modification, data detection, profile expungement, data searches, data disclosure, data matches, match report, case review guidelines and, of course, audits. It also allows for data performance parameters, data security, confidentiality and integrity. So the guidelines are there. The Regulations are far encompassing, and as I said before there are a number of measures that are being put in place because of the importance and the sensitivity of DNA, to ensure that everything is done above board.

Madam Speaker, the Trinidad and Tobago Forensic Science Centre will be a very key player in this process, in assisting the Minister to determine the criteria to be incorporated into the guidelines.

Currently the Trinidad and Tobago Forensic Science Centre in tandem with the Special Evidence Recovery Unit of the Trinidad and Tobago Police Service has already established standard operating procedures and guidelines that establish best practices for DNA storage and transportation. Again we have looked at what happens in other jurisdictions. We have looked at what is happening in other jurisdictions and looked at best practices to develop especially guidelines for storage and transportation, one of the concerns raised by the Member for Fyzabad.

Consequently, the guidelines to be issued under regulations 24 and 25 simply build on what already exists and ensures most importantly that there is consistency among all stakeholders in the DNA framework. This again is a work in progress. So as we go along we will continue to build resilience, we continue to build and ensure that safeguards are put in place. This will also allow for an elimination database to address samples and profiles which fall under the general

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category of contamination of crime scenes.

Additionally, the Regulations should allow the implementation of DNA profile expunging mechanism related to complaints in sexual assault matters, children and exonerated individuals.

Madam Speaker, let me touch a little bit more on the National Forensic DNA Databank Custodian Unit. Operationally speaking—and it is referred to as NFDD—the NFDD Custodian Unit has been instrumental in the acquisition of buccal swabs for the collection of DNA samples. But I want to outline that while we have continued building and looking at the Regulations, we were not standing still in the Ministry of National Security. We continue to establish and set up the structure, the human resource element. We continue to look at the procurement aspect and so on, and we will treat with that as we go along. So that even while we are dealing with the Regulations now, we are off to a start already. We have hired a custodian. We have started the technology aspect in terms of the sterile profiles and so on.

So that the National Forensic Databank Custodian Unit is up and running. It is up and running, because they were very instrumental in the acquisition of buccal swabs for the collection of DNA samples for specific individuals mentioned in the DNA Act, such as accused, suspects, prisoners as well as protective service members. That is an area I did not touch on, because while we looked at the whole question of the catchment area of the prisons and so on, we also have the defence and protective services, another catchment area. Persons who are there also can take DNA swabs and so on, and built into the profile system. So you can see the databank being populated almost immediately once the Regulations are passed by us.

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The NFDD custodian has also developed a training manual detailing the protocol for buccal swab collection and associate record documentation. I say that to mention that we are moving along the process, so that again, once the Regulations are passed we are already. It is just on your marks, get set, go, already ready to move, because we know and we believe that we will have the support from the Opposition on the other side as I know they understand that the whole reason that we are here is to treat with the crime and criminality in Trinidad and Tobago. Of course, they have mentioned one or two amendments, which I am sure the Attorney General will take on board. But I am sure we are all eagerly waiting for the passage of these Regulations.

Madam Speaker, a question was raised with respect to the qualification of the Custodian. Let me say that this day the Custodian himself has been hired, but the position was advertised both in the national papers and regionally. Interviews took place; transparent interviews took place, and the person who has been selected, who got the job as the custodian is in fact a Jamaican citizen, who has worked and has experience in North America and in Jamaica. He came with a great deal of experience, and he in fact got the job as the custodian. He is very well qualified. I do not have his list of qualifications here, but I am sure I can make that available. But he came well qualified, and he is the—*[Interruption]*

Madam Speaker: Minister of National Security, your original 30 minutes are now spent. You are entitled to 15 more minutes if you wish to avail yourself of it.

Hon. Maj. Gen. E. Dillon: Thank you, Madam Speaker.

Madam Speaker: You may proceed.

Hon. Maj. Gen. E. Dillon: Madam Speaker, we have also started interviews for the Deputy Custodian Manager which was scheduled in fact to be completed by the

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end of April 2018. Also, the support staff such as business operation assistants and so on, hospitality attendants, drivers will also be brought on board. So we are hoping that by the end of this month the custodian unit will be fully staffed, and once these regulations are passed, as I said, we are up and ready and willing to go. We have also located them in a building on St. Vincent Street. So they are housed already, and we are staffing them right now.

We have already started the process of procuring the buccal swabs. We have built the IT technology support system. And so, Madam Speaker, we are presently outfitted with software, firm ware, hardware necessary for the operations. The quality management system related to the minimum standards, quality assurance manuals, standard operating procedures, audits, safety and training are also being developed. SOPs related to information and communication technology such as routine back up of data, recovery of data, pre-empting and detecting unauthorized NFDD access. The issuing of user names and passwords are outstanding and require input and expertise of the database specialist who has in fact assumed duties in March, and he is on top of that right now.

The passing of these Regulations will permit police officers and qualified persons to collect crime scene materials and reference samples from specific individuals legally, and allow generated DNA profiles to be submitted, loaded, searched, cross-referenced, matched, modified, expunged and then closed in relation to the DNA databank.

When we look at the technical requirements for laboratories to participate and submit data profiles, we have been prepared by the custodian manager. So he has done the requirements for laboratories in terms of a question raised in terms of the accreditation of laboratories and so on. The custodian has prepared the kind of

requirements that are required, and in fact were submitted to the Trinidad and Tobago Forensic Science Centre. These technical requirements are also included in the request for proposals for wide forensic DNA analysis and testing services, which shall be submitted to suitable forensic laboratories. The RFP is currently under review by the legal unit in the Ministry of National Security.

The Forensic Databank Unit will be safeguarded to ensure data is secured, remains confidential and of course is of the highest integrity. Remember of course that the centre does not store names and so on. It is a sort of unique number system, and if you track the system, the police submits—of course the police knows the accused or whatever—the name, a number to the Forensic Science Centre, but when that is done a different number is sent to the databank to do the matching and so on. So that there is no way along the train you could identify where the original name comes from. So it is a whole number system to ensure security and so on.

In terms of equipment and so on, the Ministry of National Security has again—equipment such as servers, generators, computers shall be maintained and performance checked annually, or if required before to ensure that of course they are calibrated to be able to produce the kind of security measures that are possible. The whole place would be protected by security cameras, CCTV and of course manned security systems, because understanding the nature of what we are treating with, so the security component of where this is located is very important to safeguard—and stringent security in terms of access and moving away from the system to a large extent is very much security controlled, because of the nature of the business that is dealt with there in terms of interference and so on.

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6.00 p.m.

So rest assured that when we look at the Trinidad and Tobago Police Service, they themselves, again, are on board—the department or whatever, with regard to the DNA Act of 2012, has been established for processing reports that require DNA samples. So the Commissioner of Police has, in fact, established and put in place that department order with specific guidelines to treat with DNA samples by police officers.

Officers attached to the Trinidad and Tobago Police Service have attended the relevant training to ensure compliance with this legislation. So again, we have already started. We have already started, again, to prepare and train police officers who would be, again, in the position to handle these DNA samples and so on.

The DNA Regulations shall give the police stipulated timelines for logging in DNA samples taken from crime scenes and the relevant protocol to observe when storing and transporting these samples.

Madam Speaker, let me briefly say that to date in terms of procurement, several thousand DNA kits which contain the requisite buccal swabs have arrived in Trinidad and Tobago and will be utilized in keeping with the guidelines and the Regulations which are before us today. These kits will be utilized in a wide array of arrangements to give maximum effect to the successful implementation of the DNA initiatives.

The Ministry of National Security has taken the strategic direction of liaising with stakeholders so that buccal swab kits—so that the training shall commence upon the approval of the Regulations.

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So again, as soon as the Regulations are approved we are going to go straight into the training. Again, as I said, we are “on the marks, get set, go” because we understand the importance of these Regulations and their contributions in terms of deterrence, detection and prosecution, areas that we have always been concerned with in terms of crime, criminality and violence in Trinidad and Tobago.

So that to ensure that stakeholders such as the Trinidad and Tobago Police Service, Trinidad and Tobago Prison Service, the Fire Service, the Customs and Excise Division, the Defence Force and the Immigration Division will all take part in this training programme to give you a wide berth of people who can deal with this.

Madam Speaker, let me say that DNA is generally used to solve crimes in one of two ways, identification analysis, identity testing, profiling, finger printing, et cetera. But I think what is important for us at this juncture is to realize and to recognize the importance that this regulation will bring in our fight against crime, criminality and violence in Trinidad and Tobago.

And I mentioned a while ago it is not a stand-alone initiative. It cannot be a stand-alone initiative, but is based on a number, a menu of different choices that are available to us, a menu that is large and never-ending because there are always initiatives that will be required to treat with crime and criminality and violence in any country and in particular in Trinidad and Tobago.

So while the Attorney General continues with his legislative approach and the Ministry of National Security continues with the operational approach, we will continue to work together with those two-pronged attacks to treat with

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issues of crime and criminality because at the end of the day, I think what is our responsibility is to provide the agencies of national security, and their lead agency the Trinidad and Tobago Police Service, with the tools that are required, the laws that are required, the mechanisms that are required to do their jobs effectively and efficiently.

And I believe and I certainly believe that today these Regulations that will give teeth to the Act will be one such measure that can effectively treat with deterrence, detection and prosecution. And with that, Madam Speaker, I thank you very much. [*Desk thumping*]

Mr. Rushton Paray (*Mayaro*): [*Desk thumping*] Thank you very much, Madam Speaker, for allowing me the opportunity to join in the debate this evening as we debate the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018.

Madam Speaker, let me first state that I am extremely excited about this piece of legislation for two reasons. One, as a young man growing up having looked at several television programmes, I have always asked myself: Why in 2018 we are not using more DNA evidence in terms of crime detection and prosecutions at the end of the day?

And secondly, being a proponent for the use of technology and science in all aspects of improving government service, I have no doubt that I will support this regulation that is being presented to this House today. And having listened to all the speakers that have gone so far, my colleagues from Caroni Central and Fyzabad really spoke to a number of areas in the Regulations where they have seen some weaknesses and they have given some suggestions that maybe if the

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Attorney General looks to put some addendums into it, it may strengthen the regulations going forward.

DNA, Madam Speaker, it is critical, the legislation that is, the 2012 legislation. And I am very, very happy that although it took five years, five, six years to get here, I am happy that it is here and I look forward to the implementation of some of these Regulations going forward.

Now, Madam Speaker, as I get into the regulation itself, there are just one or two areas that I just want to highlight and I hope that the Attorney General would take some notes and perhaps address it in his winding-up.

One of first things that struck me, under Part I where we have some of the definitions, the term “approved laboratory”, lab, I am conscious that the Forensic Science Centre may be our authorized lab at the end of the day, and various institutions, international institutions may certify other labs.

Now, I am very cautious that we end up in a problem where an approved lab is a brick and mortar building that will be staffed with personnel, staffed with scientists, staffed with the expertise who can do the samplings and can give you some results. But I fear that we end up, if it is not specified in the regulation that we end up with a type of FedEx-type operation where somebody is authorized as a lab, but all you do is you drop off a sample inside there and it goes in a pack and it goes to a foreign lab somewhere in the US or to the UK, but that location is given all the rights and privileges as an authorized lab at the end of the day. And, again, taxpayers are paying for these things and I think the regulation should be very clear of what these authorized labs ought to be.

Madam Speaker, as we go on, the databank in itself, I heard the hon.

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Minister of National Security speak about building an IT solution and that the system, if I heard correctly, was a stand-alone system for specific security measures. But be that as it may, if it is a stand-alone system, and I suppose this system is sitting at the Forensic Science Centre, the custodian unit which will house the custodian, his staff, the deputy, I assume the database manager and so on, if it is a stand-alone system, how is he on St. Vincent Street going to connect to this system at the Forensic Science Centre to do whatever work that they have to do, or whether they will have to make that journey back and forward every time something has to happen? I am just trying to get some clarity since the Minister said it was a stand-alone system.

And as we are on the topic of the databank, Madam Speaker, in doing a bit of research, out of the 50 or 60 countries that have active databases or databanks, there is a common tool that is used across the board, something called CODIS. And I would have assumed that perhaps looking at a best-use tool internationally, bringing a tool like that may have avoided some of the additional groundwork that we may have had to do. And when I did some research on CODIS itself, it really spoke to some of the issues in the regulation here with regard to CODIS as an IT tool dealing a central database that sits at a location where the Custodian can manage, but it is a client-server operation where the police stations or the immigration offices or the prisons unit has client ends that can retrieve information based on the necessary security measures.

What was also instructive with the CODIS system, I read in the regulation where the Commissioner of Police has to develop and supervise a database system for the police to keep a track of the recording for some of these entries

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that are going to be made, whereas CODIS as a tool with modules was answering a lot of those questions. So, it is something that I am hoping that if it is something that we are building locally can be modelled very closely to what CODIS is doing.

Madam Speaker, I think both the Attorney General and the Minister of National Security answered a couple of the questions concerning the custodian, and they cleared that up based on the parent legislation that is was not a one-man operation, and that is going to be staffed administratively.

So the question that I have to ask is: the scientific component of the system that I am thinking is sitting at the Forensic Science Centre, is that staff available? Do we have we have to hire these people? Is it available as it stands now? Do we have anybody on training? Are we sourcing people for the centre?—because the regulation speaks to staffing the custodian's office, and I did not get the sense that it was the scientific component that is going to be sourced at this time. So that is something that probably the Attorney General could give us some information on during his wind-up.

Madam Speaker, on Part II number 3, section 3, item 2, they speak about the Custodian, again, doing an audit at least once for the year. I want to ask if the Custodian can be asked to take a look at auditing the remote sites as well where crime scene investigators may have to store their samples and so on during that seven-day period before they get it to the Forensic Science Centre. And knowing that it will not only be police stations, it may be immigration offices, it may be in the prison service, what is the auditing mechanism? Perhaps the Custodian may be given that power to do spot-checks auditing to

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make sure that when the sample is stored, as long as proper procedures are followed, the risks of contamination will be nil or reduced considerably. So perhaps some of the auditing features of the Custodian can look at those remote locations.

Madam Speaker, I want to touch base on item 4 where they speak about some of standards and so on which I think was cleared up in the hon. Minister's contribution, but I want to emphasize the use of the technology component in this.

DNA and DNA sampling, the power really lies in the technology, and having the technology on spot, I think it is imperative that the Regulations speak a bit to the management of that technology to ensure that certain things are looked at.

Madam Speaker, I think one of the key roles, a fundamental role in that custodian office is the man who is going to be responsible for that database, because security is a critical issue, [*Desk thumping*] database management is the issue, back-up of critical data because I am sure the people who may be willingly giving you a sample the first time, we cannot call them back and say, "Well chief, the server crash. Can we get it a second time again?" So our back-up systems have to be critical.

The Member for Fyzabad talked about the use of the Cloud as an opportunity to remove the physical damage—hurricanes, floods and so on—that could impact our facilities, but the data can be stored on the Cloud using very modern IT systems. So, I am hoping that in some way that the regulation can speak to strengthening that IT component of the database and its management,

its day-to-day management.

Madam Speaker, I want to talk a bit on Part III under Taking Samples, and section 7, item 3 which it speaks about:

“A qualified person who takes a reference sample of crime scene material under subregulation (1) shall forward the reference sample or crime scene material to the Forensic Science Centre together with a copy of the entry in the DNA Record.”

Now, as I understand in the parent legislation in the area of sexual offences, this qualified person may be a medical practitioner, a registered nurse. But I am wondering if we are not breaking the chain of custody when we are putting into the regulation here that it is the job of the qualified person to take the reference sample to the Forensic Science Centre and not the investigating officer.

I am wondering if by giving the medical practitioner as a third party in the chain that responsibility to take it to forensics, are we breaking the chain of custody there and that could open us up to some legal issues, if it is an issue by the way, because I am thinking that the investigating officer is one accountable for the case at the end of the day, legally. So, his responsibility really is to get it to the Forensic Science Centre in the prescribed time in a good working order, the DNA, that it is in good standing to get it to the Forensic Science Centre for it to be processed. So perhaps the Attorney General could identify whether if that could cause a hiccup by having this medical practitioner now take the responsibility of getting to the Forensic Science Centre.

Madam Speaker, I also want to ask, the Regulations speak about, you

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know, within seven days, and corralling seven days in a real sense, knowing how things operate in Trinidad, and before I pursue that point. I know the Member for Port of Spain North/St. Ann's East spoke about, you know, we cannot wait to figure out all the pieces of the regulation before we get started. We ought to start and we will amend go along so, at least, we can get something going.

But, Madam Speaker, in Trinidad and Tobago we also have to take behaviour and culture into a perspective when we are doing anything in this country. And sometimes I feel, unless we do not put strong regulations with key defined subsets to actually start, it leaves interpretation, and to me it took 18 years to get to today, and I would hate to sit for another 10 years and we are amending and reconfiguring every two years, every three years.

I would prefer our regulations put some definite timelines, put definite components to be achieved, and as the technology allows us to ease off the pedal, well we ease off, rather than we are trying to build as we go along. Because I can tell you as a technology person, every time I bring a tool to my employees and tell them it is going make your job easier and your life easier, they get twice the amount of work to do.

So when we put this regulation in place and we tell police officers, well we are opening this DNA thing for you to be able to, you know, catch the criminals a lot easier. I am thinking that the workload, the amount of samplings that are going to be hitting forensics and all these authorized labs, it is really going to ramp up.

So, you know, I think our regulations really should be firm and precise

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with set targets. So, the seven days is something that I think, you know, we should be a little more definite on, and say, give a specific time. And then in reading the Regulations there is nothing in the Regulations that tell me what happens after seven days. It says that a senior police officer will review or audit their records to see that samples are not sitting in a storage unit beyond seven days. But the regulation does not say what happens then. What happens to those samples? Who is responsible for tickets? Samples remain 14, 21 days and then the investigating officer goes on sick leave, he goes on two months' vacation. Who takes it and runs with it? The regulations are not specific. The regulation also does not speak to how are we going to hold people accountable for making sure that things happen within prescribed time? Because I really feel, the only way that we are going to deal with behaviour and culture is if we speak to those things in the Regulations.

Madam Speaker, we talk about the Custodian and auditing and this is another reason why I think we should allow the Custodian to make visits. As long as we have agencies of the State where the storing of these samples have to be while it waits for transport to forensics, the custodian should be able to do spot checks, spot visits to test these locations to make sure that they are following the guidelines as the SOP that the Minister of National Security has spoken about.

So, Madam Speaker, I want talk briefly on the section under analysis. And I know my colleague the Member from Fyzabad spoke in some detail about the power of the DNA and a bit of the history, and more so the advantages of good DNA sampling in the crime-fighting arena. But we must not forget,

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Madam Speaker, that DNA sampling is much more of an effective tool rule in ruling out suspects rather than confirming guilt on someone else, [*Desk thumping*] and the analysis itself is an extreme skill that has to be acquired over time.

[MR. DEPUTY SPEAKER *in the Chair*]

And I want to just give a little example, Mr. Deputy Speaker. In a crime scene, unless a felon or a suspect leaves a trace DNA somewhere in a nice, clean covered spot with a little piece of paper saying, “Check my DNA here”. Nine out of 10 times the DNA sample that has to be recovered in a crime scene will have a fair amount of contamination—mud, dirt, waste, water—that it really, the skill in matching the locus, the markers, really in reality, nine out of 10 times, you may not get a perfect match. So the interpretation of the software and the skilled person really will come back with a report and say, it is a high match, medium match, low match, 75 per cent match, 80 per cent match, 40 per cent match based on contamination that you get.

So the analysis component is extremely important, and what I would want the Minister of National Security to emphasize with the police is that, taking that into consideration, we are giving you these tools, we are putting regulations in place to give you another fighting tool in the fight against crime, but officers should not only depend on DNA. They ought to go out there and gather more circumstantial evidence in the absence of eye-witness testimony and so on, because it is not a fool-proof science at the end of the day.

And if you would permit me just to speak about an issue in the United States where you have what they call the Innocence Project where you have this

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organization that over the last few years have debunked over 300 cases, convictions where DNA results have been thrown out because of a number of reasons. And as a matter of fact, over 154 of those cases have led to convictions of other persons.

So it is important that the Minister reemphasizes with the police service that, yes, we are giving you it, but do not be lazy in the investigation process. The old method of, you know, finding additional circumstantial evidence is critical, so when we prosecute we get good results in court at the end of today.

Mr. Deputy Speaker, there is another component of the analysis regulation that is missing, and I know my colleague the Member for Fyzabad spoke about it briefly, it is in the disposal of reference samples. The disposal of some of the crime scene material. We are not talking about the disposal of the records, but at some point in time you may have 2,000, 3,000, 5,000, 10,000 samples, physical samples sitting somewhere. Perhaps the regulation should define whether it should be burnt, buried, how are we going to dispose it? It should not be left in a certain area for any pieces of it, and perhaps the regulation should state it. And while I know it may have been spoken about in the debate in the parent legislation, I made the comment that because of behaviour and culture in Trinidad, sometimes we have to, you know, firm up, firm up some of these Regulations to drive behaviour changes. So, I am hoping that is something that we can consider.

Mr. Deputy Speaker, I want to move quickly to Part IV where we speak about records, and in terms of when the collection of the samples during that process. In reading regulations from other locations, I noticed that the regulation

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did not speak to: At what point in time does the form be filled out?

And in other jurisdictions, before I can take a swab, the investigating officer must fill the form out first, have the victim or the suspect verify the form that the information is correct, name, date of birth, whatever, and then the sample is made and put in the bag and sealed in front of the person. So the regulation is silent on that procedure. And I think if it does not happen, it could open you up to quite a bit of challenges in the court, where a man could say well, "I did not see you put the sample with information on that package". So perhaps the regulation can look at that in some way during the wrap-up phase.

Mr. Deputy Speaker, I want to move quickly on to Part VII which speaks on the storage reference samples and crime scene materials. And under that Part they speak, let us say 24A:

"there shall be assigned a secure room or receptacle for the storage of the reference sample and crime scene material before they are transported to the Forensic Science Centre or approved laboratory;"

Mr. Deputy Speaker, I am wondering, again, because of the fact that we are trying to drive a behaviour change among our police officers, amongst the people who are going to be doing this, perhaps the regulation should identify the room in some more detail. What is the type of—

Mr. Deyalsingh: Mr. Deputy Speaker, most regrettably, Standing Order 55(1)(b), please. All this has been brought up by, at least, two Members of the Opposition already. Please, regrettably.

Mr. Deputy Speaker: Again, Member, I will give you some leeway because I know it is a limited debate, but I will give you a little leeway, but try and tie it in

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quickly, please.

Mr. R. Paray: Thank you, Mr. Deputy Speaker. I know it was mentioned a bit, but besides only the clarity, Mr. Deputy Speaker, you see, I understand how the system is working right now, because I spoke to police officers over the last two days, some of whom are crime scene investigators, and I mean, they will tell you that where they put the samples is a kitchen fridge. Right? And if the regulation does not specify that the storage unit for these samples why they are sitting there for seven days can maintain a temperature between seven degrees Celsius and minus 10, it can impact the quality of the DNA samples. [*Desk thumping*] So the real issue here is the regulation identifying some of these things to drive the behaviour change that we want.

More so, Mr. Deputy Speaker, I have officers telling me that the DNA sample goes in a brown bag because the packaging must be breathable, so you cannot put it in a plastic bag and tie a knot and throw it in the fridge. But hear what is the problem. In some of those crime scene units, you have other officers who will wrap a cutlass, wrap a knife, an ice pick that may have been used in a felony and put it in the fridge next to it.

Hon. Member: Put it in the what?—fridge?

Mr. R. Paray: Put it in the fridge, next to it. And there is the possibility of cross-contamination.

So when we are speaking on storage and reference samples, I am speaking about the real challenges that these officers are having because they cannot determine what type of fridge they use at the police station, but they put it in. Hence, we are asking that perhaps the regulation should identify, again,

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that the Custodian comes and visits these locations to make sure that the right procedures are being followed.

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So, Mr. Deputy Speaker, the breathable packaging is what is important, because if you just throw it together, and one next to another, and it remains more than seven days, 14 days, 21 days, the samples can be contaminated going to the Forensic Science Centre. [*Desk thumping*] Mr. Deputy Speaker, the real issues in transportation is that you have officers who may have to transport this sample in their trunk, in the back seat of a car, and they do not have a priority bus route pass, so it is going to take four hours in the hot sun to get them to Port of Spain.

So transportation, I feel that the regulation should really put a determination of, this thing must be transported to the Forensic Science Centre within 24 or 48 hours, and if the particular location, for instance in Eastern Division the location is really Sangre Grande where the crime scene unit sits, if a courier service, as advanced by the Member for Fyzabad earlier on, can be put in place, assist in where a cold storage courier service can pass and collect these samples to take to the Forensic Science Centre within a specific time, that may be an option. And again, the reason for bringing up the point is that the Regulations really could force a behaviour change and how we operate, and that is what I think is important for us. [*Desk thumping*]

Mr. Deputy Speaker, for transportation, there is a magazine article called “Deeper Insights: Revolutionizing DNA Extraction Processes”, where they make it extremely clear that crime scene units must be aware that direct sunlight and warmer conditions may degrade DNA, and they must avoid storing evidence in

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places that may get hot such as the trunk of cars, which I know they do all the time.

So, Mr. Deputy Speaker, as I go on, I would not be much longer, I just wanted to raise one more issue on the forms. Now, as someone involved in technology solutions as a business, when we have to roll out a new piece of software to a user group, we try to format the forms that fit the solution, the tool. So the transition to collect the data, to input the data, it is very easy for the transition, but when I look at the forms, and I am wondering that the tool itself has not.

Mr. Deputy Speaker: Member, your initial speaking time has expired. You have an additional 15. You care to avail yourself?

Mr. R. Paray: Yes.

Mr. Deputy Speaker: Proceed.

Mr. R. Paray: Thank you, Mr. Deputy Speaker. [*Desk thumping*] I was speaking about the forms, and if the tool, the software tool has not been completed as yet, and it is not using one of the international standards like CODIS, I am wondering if we are not creating a bigger problem by putting forms in place that may not be in line with what the software is going to ask you when time to input into the database.

So, that is one observation I made on quite a few of the forms. The other observation that I made is the issue of when the data that goes to the Forensic Science Centre, it has no name, it has a unique identifier number, I am assuming that the record that the police will be keeping at their location that is going to be administered by the Police Commissioner, that will have the case and the person's name, and so on. But it is only when the record comes back to the police, then they know well this identifies to this particular case.

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Now, FedEx uses a very nice system where there is a barcode on every form pre-printed, and I am wondering if our forms may not get some value by having 10,000 or 20,000 forms pre-printed with UIDs that can be used? And I am hoping that the technology solution that is going to be used, from the time it is scanned it can connect its relationship to the database, back to the case file, back to the Police Commissioner, and it absolves having somebody to write in, because I am seeing where you have to write in a UID here. And, again, if there is no opportunity for MRI magnetic optical readers to pull this information out, we are open to human error and so on in the updating of the database, Mr. Deputy Speaker.

So, in looking at the technology, I think we need to be very careful that we do not create a bigger problem with the human error. Because, as I said, there is a human component—I think the Member for Caroni Central spoke about systems are only as powerful as the human beings that are operating them. And one of the things that we do in IT is really to try to bridge that gap and make sure it is the easiest way for the human component to really work with the technology solution.

So, Mr. Deputy Speaker, those were the few areas that in reading the regulation from a very non-legal perspective, and a bit of understanding of how it is working in reality, I am really hoping that we can get to some point where this regulation can be put to work, and really get our police officers the tool to drive the detection of crime in a very manageable way. And, again, I want to thank the Attorney General for bringing these regulations so that we can debate in the House this evening. And with those few words, Mr. Deputy Speaker, thank you very much. [*Desk thumping*]

[*Dr. Gopeesingh stands*]

Mr. Deputy Speaker: I recognize the Member—

[*Ms. Mc Donald stands*] [*Crosstalk*]

Mr. Deputy Speaker: I recognize the Member for Caroni East.

Dr. Tim Gopeesingh (*Caroni East*): Thank you very much—

Mr. Hinds: But you could have given way to the lady.

Dr. T. Gopeesingh: Thank you very much, Mr. Deputy Speaker. For me it is a real privilege to be able to contribute to this issue—[*Crosstalk*]

Mr. Deputy Speaker: Members! Members!

Dr. T. Gopeesingh:—on the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018, which are intended to regulate the manner that DNA is collected, transported, stored, and entered into the DNA bank. And as we have heard this evening from all Members who spoke, section 34 of the Administration of Justice (DNA) Act, 2012, empowered the Minister of National Security to make regulations which are subject to affirmative resolution of Parliament. And, so, this evening we find ourselves discussing and debating the Regulations governing the DNA Act.

Mr. Deputy Speaker, when we look back at the 2011/2012 DNA Act, which was brought to Parliament, there are some Members present in the House today, who objected to supporting the Bill at that time, because of some issues related to collection of samples, storage, analysis, et cetera. And, from what I have seen—well, of course, they did not vote for the Bill at the time. In fact, nine Members of the Opposition, in 2012, did not support the Bill, and the hon. Minister of Finance now, who was in the 2012 Bill, he questioned the areas of—[*Crosstalk*]

Mr. Deputy Speaker: Silence!

Dr. T. Gopeesingh: And I quote from the *Hansard*. He said:

“...the Bill parallels this in that it provides no safeguards whatsoever to

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ensure the accuracy of samples, to ensure the non-contamination of samples. There is no requirement for training and certification of police officers and other persons who will be taking the samples. No requirement for training and certification of technicians and analysts who will be analyzing the samples.”

These were the words of the present Minister of Finance when he was in Opposition, and did not support it.

Now, I have not seen any evidence of differentiation of what was done and what was put forward in 2012 to now what is being put forward in 2018. So, we are being asked to support something which the Minister of Finance now, then Member of the Opposition, refused to support. And also another Member present, the Member for Diego Martin West was also in the House then, did not support. And then the Attorney General now, while he was in the Senate did not support it in the first instance. So where is the differentiation from what was presented then to what is presented now? There is absolutely no difference. [*Desk thumping*] So, we are being asked to support something today in the Regulations which they refused to support in 2012.

Mr. Al-Rawi: Hon. Member, what is the source of your statement?

Dr. T. Gopeesingh: The *Hansard*.

Mr. Deputy Speaker: Hon. AG, there is a procedure in order for it to be done.

Dr. T. Gopeesingh: I just quoted the *Hansard*, Mr. Deputy Speaker. And in fact, the present Minister of Finance, he said—

Mr. Al-Rawi: Well then if so, 48(4), Mr. Deputy Speaker, on the motive. I am now compelled to ask for the source. [*Crosstalk*]

Mr. Deputy Speaker: Member, he quoted a Standing Order.

Dr. Moonilal: What Standing Order you said?

Mr. Deputy Speaker: Member, kindly quote your source once you are quoting from any document, please.

Dr. T. Gopeesingh: I quote from the parliamentary report when nine Members of the Opposition did not support the Bill in 2012.

Mr. Deputy Speaker: As you know, Member, you are well groomed. You will need to quote—

Dr. T. Gopeesingh: I cannot find the—the *Hansard* will have that. It is in *Hansard* practical.

Hon. Member: No.

Mr. Deputy Speaker: Well, Member, well move on. Tie it up and move on please then. You must quote the date of your source.

Mrs. Newallo-Hosein: November 2011.

Dr. T. Gopeesingh: November 2011, Mr. Deputy Speaker. That is the parliamentary report, November 2011.

And the Member of Parliament, the Minister of Finance now, he said that this Bill will fail:

“The other reason this Bill will fail is that it allows for samples of DNA to be kept indefinitely including the samples of innocent people which samples will be taken without their consent.”

Hon. Member: He said it is draconian.

Dr. T. Gopeesingh: Yes. So therefore, none of these issues which he brought—

Mr. Al-Rawi: 48(5), Mr. Deputy Speaker. And in particular it arises just in the context of an inability to quote the correct source, and improper motive.

Dr. T. Gopeesingh: Wednesday, November 09, 2011, the House met at 1.30 p.m.,

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Sen. Colm Imbert.

Mr. Al-Rawi: So then I must repeat the Standing Order 48(6), because the hon. Member was quoting me a while ago. I did not speak in the House of Representatives.

Mr. Deputy Speaker: Okay. Hon. Members. [*Interruption*] Member for Caroni East, I would like you to ensure that you quote your source properly and correctly accordingly. Because again, it is for the *Hansard*.

Dr. T. Gopeesingh: Mr. Deputy Speaker, I quoted my source from the Lower House. I cannot find the source from the Senate at the moment. But the source in the Lower House is Wednesday, November 09, 2011 [*Desk thumping*] and I quoted the statement of the present Minister of Finance who objected at that time. Mr. Deputy Speaker, I want to move on—

Mr. Al-Rawi: 48(6). The reference to me in the debate as my learned friend has quoted is an improper motive, and I cannot allow it to stand on the record, subject to your ruling.

Mr. Deputy Speaker: Okay, AG. Again, Member, you just quoted with regard to the wrong House, so could you just withdraw with regard to the AG and proceed.

Dr. T. Gopeesingh: If the AG is finicky, I will—[*Laughter*]

Mr. Deputy Speaker: Member! Member! Member!

Dr. T. Gopeesingh: I withdraw. AG, but you know you said it.

Mr. Deputy Speaker: Member! Member, withdraw and proceed!

Dr. T. Gopeesingh: All right.

Mr. Deputy Speaker: Thank you.

Dr. T. Gopeesingh: Mr. Deputy Speaker, come on AG, do not be too thin-skinned.

Mr. Deyalsingh: Mr. Deputy Speaker, could we have a ruling as to whether he

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withdrew the statement or not, please? [*Crosstalk*]

Mr. Deputy Speaker: Member for Caroni East, for the record, did you withdraw?

Dr. T. Gopeesingh: Yes.

Mr. Deputy Speaker: Right, proceed!

Dr. T. Gopeesingh: Until I find the real date. Okay, regulation 3(2), Mr. Deputy Speaker, I am going into the Regulations now, and it states:

“The Custodian shall at least once a year conduct an on-site visit to the Forensic Science Centre to ensure that the Forensic Science Centre has the capability to perform the requisite DNA service.”

So, this regulation gives the Custodian power to visit the Forensic Science Centre only once, once, to determine its capabilities to perform the requisite DNA service. The term “requisite DNA service” is vague, and I wish that the Attorney General would probably make some comments on that, to show more clarity on what we mean by requisite DNA service. And should be more particularly defined as DNA services; we want him to make some statement on that.

The word “forensic” should also be included to read, “requisite forensic DNA service”, which is also mentioned in the Act. That is mentioned in the Act, so it should be mentioned in the Regulations. Accredited private laboratories are also given the power to perform forensic DNA services. So, therefore, the powers of the Custodian should be extended to also inspect those accredited private laboratories. So one consideration in an amendment to the regulation in 3(2), when you say that the Custodian will visit the Forensic Science Centre, you could possibly consider adding “and other accredited private laboratories”. And as you found out today, Attorney General, the regulations can be amended. I am surprised that you did not know that before, because of your length of time inside here. But, that is why the

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Regulations are brought for affirmative resolution, so that we can discuss it and make changes where applicable. [*Desk thumping*]

And I want to draw the attention to this House of regulations, let us say in South Africa—we want to compare regulations, and on examining the South African DNA Regulations there, to even set a standard that the laboratories must comply with, which is the International Organization for Standardization ISO17025. Now, South Africa has gone for international accreditation and standardization ISO17025. We just cannot say that we are going for quality assurance, and standards, and so on.

The hon. Minister of Health will know that we operate with laboratories in Trinidad and Tobago, and we must have a certain degree of accreditation, and perfection, and distinction in these labs. Now, you are playing with the lives of people when you do DNA sampling and testing and analysis. So, you must aim—the Minister of National Security spoke about the standards and the quality assurance, and so on. That is all good to say. But where is the international recognition and certification standards that you can carry your forensic laboratory and your databank to?

And we want to request that active consideration be given to this issue of the quality assurance and standards to meet the international accreditation certification of ISO17025. [*Desk thumping*] And that is South Africa Regulation 7, forensic DNA examinations must be performed in accordance with quality management system of the forensic science laboratory based on ISO17025. You know, in the medical field there is only one laboratory in Trinidad that is ISO certified for blood analysis and so on? So we want to make sure, and my colleague the Member for Port of Spain South will speak after. I am sure. We would want to hear some

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comments on this issue, about the certification of laboratories. And the South African on the DNA issue, compliance with regulatory and safety requirements on the operation of laboratories, is not covered by ISO/IEC17025, 2005. So even there they have difficulty in compliance.

I want to move on to regulation 4(1), and which states:

“The Custodian shall, from time to time, set the minimum standards, in accordance with international best practices...”

You see, here it is international best practices. But you want a comparator, and the comparator must be ISO.

“...for entry onto and removal of data from the databank, which shall be published in the *Gazette*.”

So, currently there are no standards that are set for the operations of the Forensic Science Centre. The Forensic Science Centre, is it accredited or not accredited? And I do not think we have heard that from any of the three speakers on the Government side today, including the Attorney General, who piloted the regulations. And that is important, because when you go to court and you present this piece of forensic evidence against the accused, a good attorney, which has happened in a previous case from a perspective of questioning the accreditation of one of the pathologists, who, at that time was not fully accredited as a forensic pathologist, and the accused won the case because of the accreditation issue.

So when a good defence lawyer asks, “Is your Forensic Science Centre accredited? Do you have international accreditation?” You say, “No.” You bring that whole aspect of the standards and the whole issue open, and with the possibility of the accused being acquitted. My colleague, the Member for Laventille West, is an attorney with good criminal experience, and I am sure he

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might be able to understand and appreciate a little more, from what I am saying. So, currently, we know that there are no standards, which means that there are no legislative prescribed operating standards. There are no legislated prescribed operating standard, and we would have liked to see that in the Regulations or in the Act.

And when we examine the Jamaican model, Mr. Deputy Speaker, they have included a specific list of standards which should be included in our regulations for a proper quality management system. And those standards are standards for testing the proficiency of forensic science laboratory, and forensic analysts in conducting analysis of DNA. That is standards for the analysts as well. Criteria for quality assurance and proficiency tests to be applied to the various types of DNA analysis used by the forensic science laboratories, a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably, confidential requirements specified by the Custodian. These standards and criteria have to be applied across the board to the Forensic Science Centre and private laboratories. These, at the moment, are not spelt out. There are no legislated operating standards. We want to see that included to bring some degree of comfort.
[*Desk thumping*]

Information technology, my colleague the Member for Mayaro spoke about part of it. I want to go to regulation 6, and it deals with the duties of the Custodian as regards information technology, but omitted to deal with securing the data. How do you secure the data? There should be a level of encryption of the data in the event it is accessed by a third party to prevent them from accessing or altering same. They speak about an encryption, but it is very vague. Rhode Island, in their DNA regulations included the following safeguards, and they have a particular

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regulation 3, 1(b) and (c), which says:

“Further, these records shall be accessed only through the use of an encryption code. The encryption code shall be confidential and only those persons authorized by the Department and charged with responsibilities under the Act shall have access to these records and shall be given the encryption code.”

So you know who has the encryption code, the databank has been encrypted, the Forensic Science Centre, and therefore the issue of information getting to hands where you do not want them to be is secured.

So, the Minister of National Security and the hon. Attorney General should tell us—well, the Minister spoke already, but the Attorney General—how the forensic science laboratory, or centre, and the databank centre, how the information in those two areas is being secured without the ability for people to hack in and getting information there. [*Desk thumping*]

I just want to make one more point on that. All DNA samples should be securely locked with the coded locking system. The Member for Mayaro alluded to some parts of that in a DNA databank at the department, and only the director and the DNA laboratory shall have access to these DNA samples to carry out the provisions of the Act. That is what, in Rhode Island, they have in the regulations. Why can we not spell out some of these in our regulations? In our haste to bring the Regulations forward to Parliament, we ought to consider some of these things, and a lot more research should have gone on to see what is best practice around the world in formulating these Regulations. So, they are weak at the moment. The Regulations are weak.

So, if we support it, because it needs a three-fifths majority, and we were

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only able to secure the Bill in 2012 because we had a three-fifths majority at that time, but these have serious consequences on the constitutional rights of citizens. So, we need to be very careful about what we do. Now, the taking of samples, our regulations here, we are discussing this afternoon provide for the taking of samples for the following persons: complainant; suspect; detainee; accused; person who attends a crime scene; the child; person detained in prison for the first time; and, number six, detainee at a port of entry.

Section 12 of the Act, however, Mr. Deputy Speaker, allows persons who volunteer their DNA to give a sample. The regulation does not cover the manner in which these samples are taken, particularly the volunteers, stored or transmitted to the Forensic Science Centre. The Regulations also do not cover the taking of samples from the members of the protective services. The hon. Minister indicated that the members of the protective services, their samples would be collected, and I believe when the Member for Laventille East chaired the Joint Select Committee on National Security in 2016, there came to be the issue of the taking of samples from the protective services.

Now, we do not know what type of samples are going to be taken, or are required from the protective services. Are they non-intimate samples? And how is it going to be done when there are close to 6,000 police officers, about 5,000 or 6,000 members of the defence force, and about 2,000 or 3,000 from the fire services. So, that is about 14,000—I might be a few hundreds off—from the protective services whose samples have to be taken, but it is not spelt out what type of samples and how these samples are going to be taken, and analyzed, and stored. So that is something that has to be dealt with. [*Desk thumping*]

Further, the Regulations only go far as taking reference samples, which is

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not enough. And when you look at the South Africa regulations, it stipulates the manner in which the sample is taken, and the procedural requirements that have to be complied with in taking the sample. So here it is again, as a good model for the Regulations, the South Africa regulations specify all these things, which ours do not. So, we have some degree of—a large vacuum in our regulation at the moment. And they went on to state, like their regulation 2(2):

The DNA reference buccal collection kit must be used to collect the buccal sample.

Hon. Member: A kit.

7.00 p.m.

Dr. T. Gopeesingh: A kit. Well, I saw the Attorney General said that there are about 18,000 kits coming in and I heard the Minister of National Security said that the kits are here. We welcome that. But does the kit include the protection of the person who is taking the sample of the buccal smear. And the regulation 2(3), the South African model says:

“In the absence of a buccal sample or upon a specific request of a person from whom the sample is required, a control blood sample may be taken by a registered medical practitioner or registered nurse.”

So you have an alternative. According to their definition of a non-intimate sample it includes buccal sample.

Mr. Deputy Speaker, I had the privilege of sitting in the Joint Select Committee in 2007 with former Minister Dr. Amery Brown, and I believe the present Minister of Finance was there as well, when we discussed the question of the intimate samples and the non-intimate samples. And there was considerable amount of debate on the issue of intimate samples. So this question about the

regulation, according to the definition of a non-intimate sample, it includes buccal sample, hair, blood from a pin prick and saliva. So there is no regulation to determine which sample should be taken.

Further, the proposed regulation does not make a distinction when an intimate sample should be taken as compared to a non-intimate sample. It only speaks of a reference sample. It is not specific and that should be made more specific in the Regulation. [*Desk thumping*] And their regulation 2(4), the South African Regulation model which they used:

“The personnel protective clothing provided in the DNA reference (buccal) collection kit must be worn by the authorised person when a buccal sample is collected from any person. The personnel protective clothing provided in the DNA reference (buccal) collection kit must be disposed of by placing these items in the original packaging (pouch) of the kit, which in turn must be attached to the evidence sealing bag containing the DNA reference sample.”

So you see how far they have gone to include all the necessary apparatus that is used in taking just a buccal smear to prevent contamination. And at the end of it they have to put all of that together in the kit.

So that it should be regulated that any authorized person to take a sample should wear their full kit when taking these samples. And we would not want to see cases being thrown out because of that legal technicality and possibly contamination. And they went on to say, the South African model, regulation 4(2):

“The evidence collection kit must be packaged in an evidence sealing bag and must clearly indicate the relevant station and CAS number...”

Again these are important Regulations, Mr. Deputy Speaker, which should be

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included to reduce contamination. That is our—that is what we prefer. And their regulation 4(3):

“If an evidence collection kit is not available or there are compelling reasons as...the detective concerned must consult with the Forensic Science Laboratory to ascertain how the exhibit or sample must be dealt with.”

So reasonable steps must be taken, Mr. Deputy Speaker, to ensure that the exhibit or samples are also not exposed to heat degradation. We have to be careful. The hon. Member for Mayaro spoke about the temperatures and so on. But if you take a buccal smear, and in my medical practice in gynaecology, I have to take smears, but I have to put it in a particular medium to transport to the lab and it must be sent within the same day.

Now, we do not have any information as to when you take a buccal smear, which includes saliva and so on, and cells from the inner aspect of the mouth, and you put it into a medium and you do not take it into the lab within a quick space of time there is decomposition, there is abnormal cellular proliferation with the sample that makes the whole sample null and void. So you have to be careful. You could go and take 14,000 buccal smears, non-intimate samples from the Trinidad and Tobago Defence Force and the police service and the fire service, and if you do not do it properly you will have everything just null and void and of no significance whatsoever, because one must be extremely careful.

I just want to raise one issue of the jurisprudence issue which the Attorney General spoke about, and he spoke about the Marper issue and the Supreme Court and the European Court of Justice and so on, but I am not in that field of law and therefore—

Mr. Deputy Speaker: Hon. Member, your initial 30 minutes has expired. You

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have an additional 15 minutes. Do you care to avail yourself?

Dr. T. Gopeesingh: Thank you very much.

Mr. Deputy Speaker: Proceed.

Dr. T. Gopeesingh: I will move on, Mr. Deputy Speaker. I want to raise a few points. The resources, and the editorial of *Newsday*, March 2018, recently, they said:

“That opportunity must not be squandered. All the resources necessary for the successful management of State forensic capacity must now be allocated.”

So in our quest, which we are very happy to see this thing starting and the work of the lab going on, we want to ensure that the Government allocates proper financial resources and the human resources altogether, [*Desk thumping*] and this must include improving the Forensic Science Centre.

And, Mr. Deputy Speaker, there are some major issues in the Forensic Science Centre. There is the issue of the pathologist. There was an issue where the pathologist was upset outside the Tobago Mortuary and a journalist, Elizabeth Williams in Tobago reported via a Facebook post on March 21, 2018, I am quoting my source, Mr. Deputy Speaker, that:

“The backlog of autopsies at the Scarborough Mortuary, were only yesterday being cleared, as pathologist Dr....Daisley arrived on the scene”—extremely upset—“He complained”—that he was not being paid.

Well, I know Prof. Daisley. We were at university together in the university system. He was at Mona with the hon. Prime Minister and myself and a number of us, Hubert Daisley, a very distinguished and competent forensic pathologist. So the pathologist is upset. Inadequate staffing and backlog, and I want to quote an

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excerpt from *Newsday*, January 18, 2018:

“One pathologist at Forensic Science Centre, bodies piling up”—by Nalinee Seelal.

“Des Vignes”—said—“workload includes murder victims, suspected murders and other deaths deemed unnatural by the police.

Last Monday there were 17 bodies scheduled for autopsies...with only one pathologist, it remained unclear how many were done that day. Some families have had to wait for several days to have bodies released for funerals.”

Mr. Hinds: What is the relevance of this?

Dr. Gopeesingh: You need to have pathologists. You are opening a Forensic Science Centre, you have one pathologist, you have to get some international pathologists because we do not have enough in Trinidad and Tobago. You have to work the system to have more scholarships given for them so that they will go and train. But the system that they used to—open for scholarship—was so antiquated that people became fed up and they just decided they are not going to apply for these scholarships. And:

“A source at the”—Forensic Science Centre—“said yesterday the situation could only be described as chaotic because murders continue at an alarming rate and the workload is taking a”—serious—“toll on the pathologists.

Additionally”—a Forensic Science Centre—“director Arlette Lewis is on vacation and is expected to retire in April. Deputy director, Glen Pamassar is acting in her absence, while the head of the ballistics department, Derek Sankar, is acting as deputy director.

Mortuary room staff said yesterday their jobs are becoming more frustrating

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because the”—Forensic Science Centre—“is in dire need of three more pathologists.”

So there is an excerpt from *Newsday*, November 21st:

“Retired Alexandrov fears for Forensics”

He said:

“Simply put, nothing is being done.”

And that is the Forensic Science Centre that we have to send all these samples to and have to store them and put them on a databank.

“These were the words of retired forensic pathologist Dr. Valery Alexandrov when asked yesterday about the conditions at the Forensic Science Centre.”

He said:

“...conditions at the centre have not improved since his retirement, and only one forensic pathologist, Dr...Des Vignes, is doing autopsies which, he says, are close to 1,000 per year.

In Tobago, Alexandrov said, Dr Estlyn McDonald-Burris”—a very competent person—“was in charge of the forensic sciences centre and would have to work in Trinidad as well in Des Vignes’ absence.”

And:

“He said...the centre continues to grapple with a severe staff shortage...”

So we are passing all this Bill, the Act, we passed it in 2012. We are going to pass the Regulations today, but the whole aspect of the governance and human resource management and the infrastructure management and so on, the personnel is very weak, Mr. Deputy Speaker. So no matter what we do we will not be able to improve it unless we make a dedicated effort in the areas that have to be improved. And then, the hon. Member for Laventille West was the Chairman of the Eleventh

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Parliament's Joint Select Committee on National Security for the Second Session (2016/2017), the Eleventh Parliament, on the Inquiry into the Operations of the Trinidad and Tobago Forensic Science Centre and the Issue of DNA sampling in Trinidad and Tobago. And the issues were, I am quoting from the Report, that is before Parliament:

- “1. Operational improvements at the”—Trinidad and Tobago Forensic Science Centre—“including the reduction of the backlog of DNA test (Narcotics, Homicides and Ballistics);”

That is a recommendation.

- “2. The accreditation of the”—Trinidad and Tobago Forensic Science Centre—“and its laboratory services under the International Standards Organization and International Electro Technical Commission...”

This is the recommendation of a report where Members of Government sat on and the Member for Laventille West was the Chairman of that, making these recommendations. Very important, Mr. Deputy Speaker:

- “3. The efficient implementation of the Administration of Justice”—DNA—“Act, 2012, (the Act) and the introduction of effective methods of DNA sampling;
4. Accommodation issues and staff shortages at the”—Forensic Science Centre;
- “5. The establishment, commencement and operationalization of a DNA Databank.”

Well, I heard the Minister of National Security say this evening that they have started.

- “6. The need for Regulations for the purpose...”—which we are

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discussing now.

And their recommendations:

“a) Continue to pursue measures to ensure that the Centre is accredited to ISO/IEC 17025 as soon as possible;”

The Member for Laventille West, Chairman.

“b) Conduct periodic follow-up with the Permanent Secretary of the Ministry of National Security toward operationalizing the comprehensive timeline for the implementation of solutions as”—defined—“by the Director...including:

i. the resources required by the”—Trinidad and Tobago Forensic Science Centre.

“ii. recommendations for the improvement of the operations of the TTFSC using current resources...”

And another one:

“2. That there be a review of the process for the granting of scholarships in the area of forensic pathology as well as the process for hiring internationally-based Forensic Pathologists with the objective of addressing the challenges in procuring qualified and experienced Forensic Pathologists;”

Even the Ombudsman Report spoke about the weaknesses. And when you look at the amount of funding out of a, almost \$5 billion budget for national security, you know how much is being given for the estimate for 2018, Mr. Deputy Speaker?—\$4 million. How could you improve the Forensic Science Centre with the infrastructural decay, with the lack of pathologists, with the lack of people inside there and you are giving \$4 million out of a budget of close to \$5 billion,

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when a major crux, a major important issue to prevent the amount of crime in Trinidad and Tobago will be to get this Forensic Science Centre working properly.

[*Desk thumping*]

And in other jurisdictions, *The New York Times*, on September 04, 2017, spoke about:

“...city’s medical examiner has been a pioneer in analyzing complex DNA samples. But two methods were recently discontinued, raising questions about thousands of cases.”

The science of DNA sampling, testing, analysis is moving so fast that you have to keep up to date and some countries now are putting together research teams and proper teams, scientific teams, to look at the whole question of genetics and the question of forensics so that they can keep improving their standards. We need to see this in Trinidad and Tobago. Jamaica has a good model. The Prime Minister went to Jamaica and he said that Jamaica, he likes the Jamaica model. At the University of the West Indies we do not have to go too far to copy that model.

Then the Annual Report 2016, Commission for the Retention and Use of Biometric Material and so on. The National Database, DNA Database is overseen by the national DNA Strategy Board. And the Strategy Board monitors the performance of the database and it is used by the police and publishes an annual report. It also issues guidance on the police collection and use of DNA, including, meeting the requirements.

And there are WHO guidelines as well, Mr. Deputy Speaker, for Human DNA Banking.

“Guidelines have been published recently in the Clinical Genetics Society for the United Kingdom and the American Society of Human Genetics for

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the United States of America. The guidelines prepared by the Clinical Genetics Society (U.K.) Working Party on DNA banking form the basis of these guidelines with modifications appropriate for Australian conditions. These are draft guidelines which aim to set standards for DNA banking and allow those responsible for DNA banks to use stored DNA for appropriate purposes...”

So—Mr. Deputy Speaker, could you let me know how much more time I have?

Mr. Deputy Speaker: Approximately five minutes.

Dr. T. Gopeesingh: Thank you. So, I read an article which said that the DNA lab is expected to be housed at the ABMA Building at St. Vincent Street, Port of Spain and staff are being recruited. And a DNA Regulator from Jamaica has already been contracted to oversee the operational aspect of the lab. And so, the Minister of National Security I heard him say that the Custodian has been employed. We want to know if there are Deputy Custodians, whether the positions are filled? How long would the Public Service Commission fill the other vacancies that are required for the analysis of all DNA and so on and these are not forthcoming.

So there is a lot to be done, Mr. Deputy Speaker, and a lot for the country to understand what is going on. So even though we pass these Regulations there are a lot of deficiencies in the system, there are a lot of weaknesses in the system which must be corrected, because from what I am giving there it seems as though we are going to go nowhere in terms of the analysis and a proper databank. [*Desk thumping*] So—and there are delays at the CPO office, at the Ministry and so on, to employ the people who are required to be employed.

So in closing, Mr. Deputy Speaker, I can go on to speak about what is happening in Mauritius—there was a whole big massive document and a working

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paper on what Mauritius did, Discussion Paper, Forensic Use of DNA. The French as well, massive documentation, DNA Identification Act. The United Kingdom, Forensic Science Regulator Bill. They have brought a Bill which includes all the regulations and it is a very voluminous document showing all the regulations together with other pieces of information on the Act. And there is the issue from Scotland and England and Wales, very important issue of whether the suspect is prosecuted or convicted. Whether the—

Mr. Deputy Speaker: Member, you have two more minutes.

Dr. T. Gopeesingh: Yeah. Whether the information is retained indefinitely, and the European Convention on Human Rights has ruled on that and they have ruled that individuals who had not been convicted of an offence that their information should be removed from the DNA banks.

So, Mr. Deputy Speaker, the legislation, which we know is inconsistent with sections 4 and 5, which need our support and we look forward to helping the Government in making sure that this becomes a reality. We will look at the overall cost of implementing a DNA Bank, the laboratory accreditation, upgrades to infrastructure at police stations, health centres and so on, will be essential to ensure the proper storage and preservation of DNA evidence collected.

Police officials should be able to identify, collect and preserve probative biological evidence for submission and to be trained regularly, and so, error in testing procedure should be eliminated. Error in DNA test interpretation should be eliminated; error during testing, self-contamination, erroneous lab reports, all of these things, Mr. Deputy Speaker, we have to look at very carefully before we can say that we are coming to a state where we will be happy with the state of forensic science and forensic analysis to deal with the crime rate in Trinidad and Tobago.

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Thank you very much, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Rudranath Indarsingh (*Couva South*): Thank you very much, Mr. Deputy Speaker, as I join this very important and significant debate this evening, as it relates to crime fighting and as have been indicated by others on the Government side, in relation to DNA and also this whole question about prosecution and fighting crime in Trinidad and Tobago.

Mr. Deputy Speaker, we have all recognized on both sides the importance of the Regulations and the importance of this and I think that, as I stand here this evening, it is important that I place on the record that the coming into being [*Crosstalk*] of these Regulations may bring a sense of—

Mr. Deputy Speaker: Members on both side, please.

Mr. R. Indarsingh:—closure to a particular crime, brutal and tragic, in the case of a family in the constituency of Couva South. I do not know if you may be able to recall, Mr. Deputy Speaker, that approximately one year ago a young man by the name of young Jesse Beephan, a student at Waterloo High School was brutally murdered and his body found at the back of the school fence.

And up till today that particular case has not been solved by officers of the Police Service of Trinidad and Tobago and it has caused so much pain and trauma to the family that only recently the father visited me at the constituency office and indicated that he would like to see closure to this particular issue or case. He indicated that he was of the opinion that if there was DNA, there was a DNA database and DNA testing and so on, in Trinidad and Tobago, in the embrace of the police service and the law enforcement agencies, it could have played a critical role in bringing closure to his family and in terms of the trauma and pain it would have caused.

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And, Mr. Deputy Speaker, it is important for us as we seek, because the focus has been on the parent legislation and also the Regulations. But also the very important buzzword that has been used by all Members of the Government as it relates to operationalization of this particular process and the Government touting that it is—they are making the difference as it relates to the operationalization. And, Mr. Deputy Speaker, I would like to quote directly from an article written by Nalinee Seelal, dated, 7th of April, 2018, page 15 of the *Newsday*, section A. And the headline of this article:

“Cops grumble over delays”

And probably the Attorney General in his winding-up would provide clarity, would provide the information not only to Members of this House but to Trinidad and Tobago where it was reported that:

“A shortage of a chemical reagent used by the staff at the Forensic Science Centre...to do DNA tests is being blamed for the delay in receiving results to be used as evidence in court cases.

Yesterday...”

—and I go on to quote from the article:

“Yesterday police complained bitterly that between January and March, they have been having trouble getting results, especially in rape cases, which is causing...cases to be adjourned.”

And probably—we have been told of some statistical information, and so on, that was provided by the Attorney General today, Mr. Deputy Speaker.

It is important for us in the context of actually walking the talk to ensure that this shortage of reagents to do the testing is not to be part and parcel of the norm in terms of the operations at the Forensic Science Centre. And also, the source,

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another paragraph in the article focused on where:

“The source...said a shortage of foreign currency was delaying the release of funds to buy other material...”

I want to repeat that:

“The source...said a shortage of foreign currency was delaying the release of funds to buy other material used at the...”—Forensic Science Centre.

And, Mr. Deputy Speaker, that is important. While we will tout that we are actually going the distance and we are walking the talk, based on the foreign exchange crisis; based on the foreign exchange shortage; based on the scenario in Trinidad and Tobago at the moment, we must ensure—and I am sure that the Minister of National Security would want to work very closely with the Minister of Finance—to ensure that there are timely releases of foreign exchange to meet the operational needs of the Forensic Science Centre.

And, Mr. Deputy Speaker, in the presentation of the Regulations today by the Attorney General of Trinidad and Tobago when he led off the debate—

Mr. Hinds: Hon. Attorney General.

Mr. R. Indarsingh: Well, Member for Laventille West, you will make your pronouncements on the relevance of the Attorney General to your Government. We will do our analysis [*Desk thumping*] of the Attorney General whether he is of benefit to the people of Trinidad and Tobago.

Mr. Deputy Speaker, as I indicated in relation to this particular issue, the Attorney General focused on the records, he focused on the searches of the databank and the analysis and so on, but it is important for us to understand as we seek to create the enabling environment in relation to this particular issue in Trinidad and Tobago, he focused on the roles and responsibilities of the Custodian.

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But the Attorney General failed to tell us and failed to inform the country in terms of how the Custodian for this DNA databank or DNA database was recruited in Trinidad and Tobago. Up till now, I am in the dark as it relates to the terms and conditions of employment, the actual compensation package, how many Deputy Custodians will exist within in this framework.

And additionally, Mr. Deputy Speaker, my colleague, the Member for Caroni East, touched on the very important issue of staffing and manpower requirements. And we have not been told today of the size of this custodial unit [*Desk thumping*] and whether they will be employed on a contractual basis or they will be recruited via the Public Service Commission or which arm of the Government of Trinidad and Tobago will recruit the manpower at the custodial unit.

7.30 p.m.

And that leads me to the very important issue, because we know for a fact that there have been problems as it relates to the finalization and the renewal of contracts in Trinidad and Tobago, and we have seen in a number of Ministries—my friend, the Minister of Social Development and Family Services, the Member for Lopinot/Bon Air West, recently told the national community that persons at various divisions of her Ministry, their employment came to an end because their contracts were not renewed. But the new Minister of Public Administration and Communications, under whose purview the Chief Personnel Officer falls and whose responsibility—that is, the Chief Personnel Officer—deals with the issue of terms and conditions for contract employment in Trinidad and Tobago, that individual and that office was crying out for specialized and additional staff at a Joint Select Committee recently. [*Desk thumping*]

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And that leads me to the point—and I have to ask the question. I am seeking clarity. I do not think that Members of the Opposition are opposed to the Regulations. We have made it very clear that we are prepared to work with the Government [*Desk thumping*] in the realization of this particular process and going the extra mile. But it is important that this is cleared up in relation to how officials of the Chief Personnel Officer's office—do they have the required expertise? [*Desk thumping*] Do they have the required track record as it relates to DNA testing and understanding the very scientific and meticulous process, that they could actually play a very integral part in the recruitment of the contract staff as it relates to the custodial unit, and what is needed in relation to give legitimacy to this whole particular process?

And I hope that in his winding up, Mr. Deputy Speaker, the Attorney General will provide the necessary inputs, and so on, in relation to the clarification I am seeking on behalf of this important issue. And also, my colleagues touched on the importance of information technology as it relates to the capability of laboratories, and so on, in Trinidad and Tobago. And I cannot seem to recollect if we have been told from those on the Government side if they are aware of how many private laboratories that are existing in Trinidad and Tobago, and the whole question of standardization and accreditation, and so on.

And this leads me to the very important issue. Trinidad and Tobago exists within the framework of what is called, the League of Nations. We exist in the global environment, and so on, and in relation to operationalization, we have been not been told—and I hope, again, that clarity will be provided, or the information will be provided, in terms of what agreements the Government of Trinidad and Tobago—have we signed on in terms of mutual agreements and lending

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assistance? Have we signed any agreements with Interpol, the FBI, and a number of the international security or law enforcement agencies that would allow for an exchange of information, a free flow of information? And also, what are the safeguards? What are the checks and balances that will be provided to nationals of this country as it relates to samples and how their respective DNA information is lodged within the national database in Trinidad and Tobago?

And we all know that in this whole process also, the importance of crime scene management—we have heard of the issue of contamination and cross contamination, and so on, have been addressed by a number of my colleagues, and I just want to take the opportunity to ensure, or reiterate for the benefit of those on the other side, because we must be able to ensure at the end of the day as we move this process, we must ensure that we must balance individual rights with the rights of the society in the prevention and detection of crime and the victims' rights to have their attackers apprehended. [*Desk thumping*] We must find that balance, Mr. Deputy Speaker.

And this is why I would conclude for the benefit of all that DNA profiling is very sensitive and therefore contamination substantially increases the risk that the sample given may not have come from the accused but another source. And, Mr. Deputy Speaker, we must—the Government, through the Attorney General, the Government, through the Minister of National Security who has a responsibility to ensure that policy is carried out through the different offices under their respective jurisdictions, and so on, we must ensure that not only the security of the DNA evidence must be impeccable, but it must also be seen to be impeccable. Public and professional confidence in the integrity and collection, and handling processes are very crucial. [*Desk thumping*].

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And, in addition to this, the very important issue—and again, we have been told today by the—I am trying to recollect. I think the Member for Port of Spain North/St. Ann's East—or St. Ann's West, sorry—told us that there was an agreement that was struck between the Government of Trinidad and Tobago and the Government of China for a new DNA facility to be built, and this would be done at no cost to the Government of Trinidad and Tobago. But he did not tell us what was the projected start date or when a sod turning would be done, and the value of this particular facility, and so on, and what benefits it would bring, not only to the regulations, and so on, but in the context of crime-fighting throughout Trinidad and Tobago. [*Desk thumping*] And, Mr. Deputy Speaker, it is always good—as I said, they could tell us of this particular Government-to-Government arrangement, but we are still left wanting as it relates to what bilateral or mutual assistance agreements have been struck in relation to moving the process forward.

And, again, coming back to the very important issue of manpower, we have been told, I think by my colleague for Caroni East, that approximately 14,000 persons, whether it is from the police, the army, the fire services and the Prison Officers Association—and we have not been comforted up to this point in time, whether this particular process of DNA, and whether it will have, what we would call, sustained financing from the Central Government of Trinidad and Tobago. [*Desk thumping*]

I say so, Mr. Deputy Speaker, because this Government has been telling the population of Trinidad and Tobago that they are experiencing a financial crunch. They are experiencing problems in realizing comfortable or, what we would call, sustained revenue stream. For example, in my constituency, the Sonny Lalloo Early Childhood Education Centre cannot be opened because of \$50,000, and I

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want to be comforted that the Central Government will ensure that this process will continue to exist and not collapse in mainstream and hamper the effective functioning of the judicial system in Trinidad and Tobago.

And that will lead me to the very important question. Again, looking for comfort and clarity, I see my colleague, the Member for Toco/Manzanilla—Toco/Sangre Grande—a former top individual as it relates to law enforcement and crime fighting, and so on and being on a number of crime scenes, and so on, in Trinidad and Tobago, we would want to ensure, too, that members of the law enforcement agencies, they are always provided with the appropriate barrier clothing. They would be provided—*[Interruption]*

Mr. Deputy Speaker: Members. Proceed. Proceed.

Mr. R. Indarsingh: They would be provided with the appropriate barrier clothing to avoid the contamination of evidence. And also I heard where the Minister of National Security, during his contribution, indicated that there would be the formulation or the establishment of a committee to act as a buffer between the Minister of National Security and the office of the Custodian, and so on, if my memory serves me right. And I would want to ask the question, if this committee will resemble, what is called a DNA profiling board, and whether it will be responsible for keeping under review, procedures adopted by the police in respect of crime scene examination—

Mr. Deputy Speaker: Hon. Member. Leader of the House.

PROCEDURAL MOTION

The Minister of Planning and Development (Hon. Camille Robinson-Regis):
Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, in accordance with Standing Order 15(5), I beg to move that the House continue to sit until the

completion of the matter before it.

Question put and agreed to.

**ADMINISTRATION OF JUSTICE (DEOXYRIBONUCLEIC ACID)
REGULATIONS, 2018**

Dr. Gopeesingh: If we say no, we can win. You have eight, we have nine.

Mr. Deputy Speaker: Proceed.

Mr. R. Indarsingh: Thank you, Mr. Deputy Speaker. My colleague from Caroni East has made a very important observation at this point in time. Before the Leader of Government Business moved the procedural motion, Mr. Deputy Speaker, I was underlining the point as it relates to what the Minister of National Security indicated in relation to the establishment of this committee that would serve as a buffer, and I was simply seeking clarity as it relates to whether it would resemble the establishment of a DNA profiling board and whether it would be responsible for keeping under review, procedures that are adopted by police in respect of crime scene examinations to ensure that they meet technical advances, the technological improvements and added complication that DNA evidence presents, and also they will reflect best practice procedures, and whether this committee that the Minister alluded to, what would be its locus standi. Would it have any legality as it relates to what he has proposed here today? And how would these persons serve on this committee? Would they be compensated under the board's committee, or would they be categorized as a statutory committee? I do not know. I am simply seeking the answers here on behalf of the Opposition and on behalf of the people of Trinidad and Tobago.

Mr. Deputy Speaker, as I come closer to the end of my contribution here, I would want to send, or tell the Government, that DNA is not the end it all as it relates to crime-fighting and crime-fighting strategies. DNA evidence is a powerful

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tool for criminal investigation, but it is not a substitute for proper police investigation. [*Desk thumping*] DNA must be used in conjunction with good police intelligence and investigation, including traditional ways of gathering evidence, and so on.

And that would lead me to ask the Minister of National Security, and even the Attorney General in relation to collaboration between Ministries, whether the CCTV camera system in Trinidad and Tobago is functioning in the different zones as it relates to crime-fighting. [*Desk thumping*] It is also imperative for those involved with the presentation and the evaluation of DNA evidence to understand it. And we may speak of qualified persons. We may speak of professional persons. But there is always the need for legal education on presentation of DNA evidence [*Desk thumping*] and this ought to be organized for forensic expert witnesses, legal practitioners, as well as judicial officers. Because we may tout operationalization, and if we do not create the experts; if we do not give them the proper grounding, the proper exposure and the proper training, then the entire process can collapse in the courts of Trinidad and Tobago, and I am sure that the Attorney General will not want this to happen in the pursuit of justice on behalf of all in this country.

Mr. Deputy Speaker, my colleague touched on the importance of having the appropriate set of forensic scientists, and so on—not scientists, but pathologists—at the Forensic Science Centre. And forensic scientists are crucial in the process of having increasingly recourse to DNA evidence for criminal investigations and for prosecution. Not only must the forensic science laboratory be well equipped but it must also be perceived as conducting laboratory processes in line with the best international standards. In order to attract and retain the best scientists in the field, consideration must be given as to whether or not it should be incorporated as a

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company and permitted to provide independent forensic DNA services to both police and suspects.

So, Mr. Deputy Speaker, we, on both sides of this House, want to see a better system. We want to see crime reduced in Trinidad and Tobago.

Mr. Deputy Speaker: Member, your initial 30 minutes have expired. You have an additional 15. Do you care to avail yourself?

Mr. R. Indarsingh: Briefly.

Mr. Deputy Speaker: Briefly. Proceed.

Mr. R. Indarsingh: Thank you, Mr. Deputy Speaker. As I said, on both sides of the House this evening you have seen the commitment and the preparedness to ensure that these Regulations are brought into being, because we on this side have a sense of commitment to Trinidad and Tobago. We understand the pain and suffering of all families who have been the victim of crime. As I started off my contribution, I alluded to the brutal murder of young Jesse Beephan, and this is our way of being patriotic and committed [*Desk thumping*] in ensuring that the pain, suffering and trauma of families in Trinidad and Tobago will be reduced by our role in crime-fighting. I thank you, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Cumuto/Manzanilla.

Mrs. Christine Newallo-Hosein (Cumuto/Manzanilla): Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, it gives me great pleasure to speak on this Motion today and just to reiterate some of the points that my colleagues made on this side were very, very pertinent. I want to go back to start with the Member for Fyzabad. The Member for Fyzabad gave a very thorough historical background of how the whole DNA genetic testing came about, and I want to just add to it; the great work that was done by John Edgar Hoover. You know, he was an American detective

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and he became the very first director of the Federal Bureau of Investigations of the United States. And he has been credited with building the FBI into a larger crime-fighting agency—and I am speaking from *Wikipedia*—than it was at its inception, with instituting a number of modernizations to police technology, such as a centralized fingerprint file and forensic laboratories.

But, you know, there is something that went radically wrong some time during the tenure of Mr. Hoover. And although there were great strides in crime-fighting, there was also the use and the misuse, and the abuse of the technology which many Members on this side would be aware of. So there is very good and there is very bad that you can find coming out of forensic crime-fighting. And it is because of this potential for evil intent—because we are dealing with human beings—you know, we need to put proper processes in place to protect the integrity of this most important crime-fighting initiative. And I think that is what the Members on this side have been trying to speak to the Government about, that, you know, there are certain things that we are seeing, we are recognizing, that need to be tightened, that need to be looked at, that need to be—you need to add certain initiatives further to it and, as my colleague the Member for Caroni East indicated, that even though it is not the Act itself—it is not the Bill—that you can still make recommendations. We do have that ability to do so.

And the reason why I am saying that is because I had the opportunity to listen to Minister Young and I was very intrigued that Minister Young had indicated that the Government abhors heinous sexual offences, and I was wondering, you know, the country does not have that view—understanding that the Government has promoted persons who are in that matter.

Mr. Al-Rawi: Standing Order—[*Inaudible*]

Mrs. C. Newallo-Hosein: So I mean, it is very concerning—

[MADAM SPEAKER *in the Chair*]

Mr. Al-Rawi: I have raised a Standing Order.

Madam Speaker: Member, if you could just withdraw that imputation and continue. Please withdraw that, saying that the Government agrees with heinous sexual offences, and continue.

Mrs. C. Newallo-Hosein: I repeated what the Minister said, but I will take it back, that the Member did not say that they do not like heinous sexual—

Mr. Al-Rawi: That is not what he said.

Mrs. Robinson-Regis: 48(6), Ma'am. She is repeating. She is repeating the same thing—

Madam Speaker: Member, remember you said you would withdraw it. So just please withdraw it and continue. Please do not explain why you said it. Okay? Please.

Mrs. C. Newallo-Hosein: Okay, I will not quote what the Minister said. So, as a result of it, it is important that we understand what is happening before us. Just to go back on what the Members on this side have indicated, you know, I am asking the Attorney General, how was the Custodian recruited. He indicated that he was already—or the person was already hired. So we are asking, was the position advertised? And my colleague raised—the Member for Couva South raised important issues of contract employment. There are currently those issues that are taking place in the Government today, of persons losing their jobs because contracts are not being renewed, and you have a very important initiative that is coming on board and we need to find out, will it really collapse midway? Because it is a very important tool that the police have been asking for and we, too, are

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supporting the fact that this DNA bank and the Regulations must come on board to ensure that there is reduction in crime in our country, because we want it to be reduced. We want crime to be reduced just as much as you do. We do not take joy and pride in hearing that every year the statistics are surpassing that of the previous year.

And so, the Member for Caroni East gave an example of other jurisdictions and best practices, and for us that is so important, because, I mean, the Member brought up the issue of South Africa and Jamaica and we, too, when we were in government under the astute leadership of Kamla Persad-Bissessar, the Minister for Trade and Industry at that time was Stephen Cadiz and the Bureau of Standards was under the Ministry of Trade, and I know that we worked assiduously to ensure that the Bureau of Standards had recognized the ISO standards internationally—

Mrs. Robinson-Regis: Madam Speaker, Standing Order 55(1)(b), please. I would invite you to look.

Madam Speaker: Member, I will give you a little leeway, but please be guided by the fact that these contributions would have been made before. So I will give you a little leeway. Please continue.

Mrs. C. Newallo-Hosein: Thank you very much, Madam Speaker. So we are just stating that it is important that whatever it is we are doing here in Trinidad and Tobago, again, it must agree with what was spoken by the Member for Fyzabad, indicating that, you know, we must be able to utilize the type of screening that is not outdated, so that we are on par internationally. And so, again, the Member for Caroni—

Mrs. Robinson-Regis: Madam Speaker, 55(1)(b). This is a regurgitation of exactly what the Member for Fyzabad said.

Madam Speaker: And I said I will give the Member for Cumuto/Manzanilla a little leeway to develop, but therefore just be reminded that, according to you, you are actually quoting what was said by a previous speaker. But I will give you a little leeway, but please go on to your own points.

Mrs. C. Newallo-Hosein: Thank you. Well, my point is this. In light of the fact that we have Members indicating the importance, I want to be able to tell you, you know, they put forward the positives, and I want to show why it is we need it. And you know, in—I am reading from an article, if you would allow me. I would not display it. We have in Massachusetts, in February 2016, the headline is:

“Cops Caught Forcing Scientists to Falsify DNA Tests To Get More Prosecutions - Now They’re Furious.”

And you know, it continues:

“A group of scientists who worked at a crime lab for the New York State”—

Mrs. Robinson-Regis: Madam, may I ask the Member to give way? Could you please give us the citation of that article, the date, the author and where it is being quoted from?

Mr. Hinds: Yes, thank you very much.

8.00 p.m.

Mrs. C. Newallo-Hosein: It is from thefreethoughtproject.com and it is an article that was written on the importance of having these proper processes in place to protect the falsification of the DNA test, and it is by John Vibes. It is by John Vibes, thefreethoughtproject.com.

Dr. Moonilal: Madam Speaker, Standing Order 55(1)(b), excessive crosstalk.

Madam Speaker: Member, I do not believe 55(1)(b) is the proper Standing Order. [Laughter] May I have some order please? So Members, could you all please

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observe the provisions of Standing Order 53. Okay? There is a proper way if a Member wishes to interject that it is done. If not, a Member can raise the issue when they join the debate. Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. So continuing, I have indicated it is John Vibes, 21st of February, 2016, and it says:

“A group of scientists who worked at a crime lab for the New York State police are now suing the department, claiming that the agency encouraged them to overlook false test results so that they could get more prosecutions. The three scientists who filed the lawsuit said that they attempted to correct some of the errors that were taking place in the crime lab, and they were silenced and retaliated against because the errors were working out in the department’s favor, and ensuring them more prosecutions.”

And so this is just one here. This was in New York and this one is now by, I am going to quote, *CBS News*. It was on *CBS News* on the 28th of September, 2012, at 10.50 p.m., by Elaine Quijano I believe it is, and the headline is “Massachusetts lab tech arrested for alleged improper handling of drug tests”, and it says here:

“Police in Massachusetts on Friday arrested a crime lab scientist and accused her”—[*Interruption*]

Mrs. Robinson-Regis: Standing Order 48(1), irrelevant.

Madam Speaker: Member, you are talking about drug tests? Could you tie this to the DNA Regulations, please?

Mrs. C. Newallo-Hosein: Sure. Absolutely. It is dealing with forensic testing, DNA testing. [*Crosstalk*]

Madam Speaker: The testing is not DNA testing. We are dealing with DNA Regulations and, therefore, if you could tie what you are speaking to, to DNA

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Regulations.

Mrs. C. Newallo-Hosein: Yes, absolutely. It had indicated that the lab chemists admitted they altered or faked the test results by adding—[*Crosstalk*] Yes, it is because, Madam Speaker, when we are speaking about the transportation of— When you are speaking of transporting samples from one point to the next, we have asked the question: How is proper transportation needs going to be put in place? Because there is a possibility [*Desk thumping*] that things could become—the actual test results could become tainted or contaminated. And as such, it is important for persons to understand that when they are giving a sample that they can feel assured that they will not be implicated wrongfully. So it is important to see that there are big countries who have proper testing in place do have levels of, for want of a word, levels of impropriety within the lab testing facilities, and we are saying on this side that we should not take it for granted that because you are saying that you have hired someone that everything is above board. [*Crosstalk*] We are saying that it is important to put proper things in place—[*Interruption*]

Madam Speaker: Hon. Members, please exercise some level of restraint, please. Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. And so, this is the point that we were indicating to the Government that we need to understand what processes are in place to protect the integrity of the samples that are collected. [*Desk thumping*] It is very important. And the reason why we are saying that, you know the Member for—we have seen in various articles where the forensic pathologist—and, Madam Speaker, a forensic pathologist plays a very important role in DNA testing. The pathologist is the one who takes the sample and sends whatever it is to the lab to be tested and, therefore, if you do not have proper and

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the sufficient staff in place for this necessary first step in a lot of places, then what you will find is that we have a Bill but we do not have any reduction in the actual—*[Interruption]* *[Ringing of a device]*

Madam Speaker: Somebody's device is disturbing the proceedings. Could the person with the offending device just please step out, turn it off, or put it on silent and return. Thank you.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. Madam Speaker, just to raise my point, just today I was reading in the papers that the hon. AG had raised a section 23 speaking about taking a sample, and sealing it, and labelling it, and recording it and such info, and it sounds really very good, except today we have six men who were detained under the anti-gang legislation, who will have to wait a little longer to receive compensation agreed to by the State since their case files have gone missing and, therefore, this is a very serious thing that we are asking here. If this is happening right now, what proper safeguards are in place to protect files, to protect the information that will lead to someone's either conviction or freedom? *[Desk thumping]* So it is important for us to understand that it is important what we are bringing across to the Government. Madam Speaker, I would wish that the Government would not take what we are saying, you know, as offensive. It is something to help. We want the best for our country *[Desk thumping]* and that is why we are raising points to add. Not to take away, it is to add.

So, Madam Speaker, the Minister of National Security had indicated that he—*[Interruption]*

Madam Speaker: Hon. Members, it is late and I would ask you all, to please abide by the Standing Orders. Member for Cumuto/Manzanilla.

Mrs. C. Newallo-Hosein: Thank you, Madam Speaker. The hon. Minister of National Security indicated that there were five imperatives that ultimately lead to prosecution which we all recognized—you know you have the deterrents, detection, and so forth—but the citizens must trust the process, Madam Speaker. I mean, there are denials of children photographed at a military camp and yet we cannot get anything.

Madam Speaker: Member, I will not allow you to go there. I think for the time you have been speaking you are talking about the integrity of the process and trusting the process, and I think the point has been made. Kindly move on and remember this is about the DNA Regulations.

Mrs. C. Newallo-Hosein: Absolutely, Madam Speaker. And this is why it is important because when you have DNA Regulations in place, and you have regulations that are governing it, and you have persons who are you know—because you are going to have police officers, you are going to have prison officers, at different places you are going to have DNA testing being taken, and as a result of it you cannot have anybody in any of these protective services, these law enforcement agencies, who may feel that they may have to be beholden to any particular person. [*Desk thumping*] It is a very serious thing, and I am not raising anything to bring any accusation against anybody. I am just saying that we do not have any—nothing is coming out of it. Nothing will come out of a lot of things and the population is concerned whether we would have any integrity in what is happening here, because, yes, we know it is a crime fighting tool.

I mean, Madam Speaker, I am a lover of looking at all these CSI and cold cases. I do because I am interested in it and I always dream, I say, “Wow, if Trinidad and Tobago could get like that”. So we want it, but we also need to ensure

the integrity of the process because it could lead to an innocent person. The same person we are trying to probably set free, we could probably condemn them. A perfect example of this is that just a couple months ago we had a Trinidadian who was caught in the US, who was responsible for handling DNA samples, and deliberately mixed it and contaminated it which led to the eventual release of several thousand persons who were in prison, who may have been in prison, falsely so. So it is important for us to understand that when you look at the persons who are handling this analysis, they must not feel pressured into doing something that they know is wrong.

So, Madam Speaker, just like the Member for Couva South, I also have concerns that the family of Akiel Chambers would have closure, and so we want this Bill. We want this Bill. We want it; [*Desk thumping*] we need it for even my own self, Madam Speaker. I mean, I do not have—this Motion. I have the issue of my son being kidnapped, there is nothing on it. No one was ever convicted for it. So therefore, it is to bring closure for a lot of families. It is imperative that they get closure.

The Member for Laventille West was saying, “Oh, you are a prophet of doom and gloom, doom and gloom”. That is all the Member was saying, but we are not doom and gloom. We are bringing reality so that the Government could up the standard and say this is what we can do, this is how we can make it better, so that we can actually bring the deterrence that the Ministry of National Security was speaking about. He can bring the deterrence and the detection, the prosecution, proper prosecution where people who have committed the crime are caught and in fact prosecuted. But I speak on behalf of the nation and the nation is saying we do not lack, we do not have the confidence, we lack the confidence, we do not see the

integrity, we see a lack of transparency. And so we are speaking on behalf of the nation, and because the nation is saying this we are telling the Government, because sometimes I think the Government, they do not listen to what the people are saying, and even if they do, they say it is not that way.

So therefore, it is important for us to bring the best practice and to bring examples of what has happened in First World countries, and if it could happen there, what more for us. And so, I listened again to Minister Young and I ask the question: Are these laboratories approved? Again, are there any locally that would be utilized? I know that for me, Madam Speaker, I go sometimes for a simple blood test and they are not done here. They take it at the lab here, but they might send it away. And so we are asking the question: Is this going to be the case in point, and will we have—I do not want to go on it, but will we have the foreign exchange for it? What about the time frame and all those things? All those things have to be addressed, and I would like the Attorney General to address it when the Minister is wrapping up.

And so, just to say that we all understand how important DNA testing is, the differences in the genetic code are the reason why one person has blue eyes rather than brown eyes, and why some people are susceptible to certain diseases, and why birds have two wings and giraffes have a long neck. We understand that and we understand the importance of it. We support the Bill, Madam Speaker. We do, and as I wrap up we are asking that at the end of the day that we can come together understanding and recognizing that we need to put a greater sense of urgency to what we are asking for. We are not asking for too much. We are asking for the process to be transparent, to have the integrity that is necessary for proper prosecution, and to have in place that they could look at the—they do not have to

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reinvent the wheel. Look at the other jurisdictions who have proper functioning facilities and let us gleam from them so that we could have a better Trinidad and Tobago, and with those few words, I thank you. [*Desk thumping*]

The Minister of Public Administration and Communications (Hon. Marlene Mc Donald): Thank you, Madam Speaker. Madam Speaker, I thank you for this opportunity to participate in this debate. It has been some time, but I am back from my sabbatical. [*Desk thumping and laughter*]

We are here this evening to give life, to give teeth to the Administration of Justice (Deoxyribonucleic Acid) Act. As a matter of fact, when we debated this seven years ago there were two debaters on the Opposition side, Diego Martin North/East and my good self, and I said then and I will say now, I am only going to pronounce that word once. I am going to call it the DNA Act from hence forward. These Regulations or subsidiary regulations, they are very important because what they are in fact doing is operationalizing the 2012 Act. It is as simple as that.

Member for Caroni East, I want to make it very clear to you that we are not here to debate the 2012 Act. We are here to debate regulations, and it is not a Bill. It is regulations. And Member for Caroni East, as we get older we are supposed to get wiser, but you know, colleague, I think you are rather disingenuous. You had enough time, your Bench, I am not speaking to Members for Pointe-a-Pierre, Mayaro, Oropouche West. Oh, no. I am talking to those who were here with me seven years ago. You had enough time to come back to this Parliament after your three-fifths majority voted in favour of the DNA Act 2012, and you all never came back here with the regulations to operationalize that Act. [*Desk thumping*] Now after seven years, you are telling us now what we are supposed to put—
[*Interruption*]

Madam Speaker: Hon. Member, if you could address the Chair, please.

Hon. M. Mc Donald: I am a little rusty. But, Madam Speaker, seven years and this Member is now coming to this honourable House to instruct us, not to even advice, to instruct us what we should put in these Regulations. It cannot happen. It cannot happen. You had your time and your time has passed.

So, Madam Speaker, I want to say to my good friends next door, on the opposite side, we would listen. I am sure the AG has taken good notes and in his wrap up he will give his decision as to where we will go. But I want to say to the Member for Mayaro, I took your point Member for Mayaro and I thought you made quite a good contribution. Also, to the Member for Fyzabad who is not here, he spoke about the blood transfusion, which is something that I listened to, in that a person may have two types of blood if that person is on the programme of some blood transfusion and I think that is important. It is worthy to note. Pardon me?

Dr. Gopeesingh: Bone marrow.

Hon. M. Mc Donald: Good, and I think it is worthy to note. But, Madam Speaker, by way of history it is like *déjà vu*. That DNA Act has had a long chequered history in this House. It was first introduced in 1999 in the Senate. That is the first version of the Bill. In 2000, it was proclaimed because November—*[Interruption]* Pardon me?

Dr. Gopeesingh: Assented.

Hon. M. Mc Donald: It was assented to in 2000. You are quite correct. The proclamation came long after. By January 26, 2007, a second version of the Bill came to this Parliament and that version repealed the 2000 Act, and the third version came on the 9th of November, 2011, and that is where I participated in that debate.

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But to date, Madam Speaker, no subsidiary legislation had been laid in this Parliament. So what does this all mean? It simply mean that, yes, the law is there on the books. It is there, 2012. It is there, but we could not have used it because it was not operationalized. As a matter of fact, let me read from the *Hansard*, 9th of November, 2011, and this is what the Minister of Justice, Volney, had to say when he piloted this. He said:

“This Government is cognizant of the promise it made to our beloved nation to return Trinidad and Tobago a place where the safety and security of life and property is paramount.”

He said:

“The burgeoning criminal activity in our country, however, calls for an equally strong and decisive response by the Government. We must use all within our power, improved legislation, updated technology and processes, manpower training as well as innovative programmes to arrest and address the issue.”

And he went on to say:

“Today we send a very strong message to those persons that we will no longer allow this unbridled criminal activity to flourish at the expense of the safety and security of our people.”

Mrs. Newallo-Hosein: 48(1). 48(1), Madam Speaker.

Hon. M. Mc Donald: Member for Cumuto/Manzanilla?

Madam Speaker: Overruled. I will give you an opportunity to put your context, but please go on to your substantive points.

Hon. M. Mc Donald: Thank you, Madam Speaker. Member for Cumuto/Manzanilla, you have no shame. [*Crosstalk*]

Mr. Lee: 48(6), Madam Speaker. (4) and (6). I am surprised by the Member for Port of Spain South.

Hon. M. Mc Donald: You did not allow me to finish my sentence.

Madam Speaker: Member for Port of Spain North, please.

Hon. Member: South.

Madam Speaker: Member for Port of Spain South, I will ask you to withdraw that. Okay? We all have to be parliamentary inside of here. While banter is allowed, I think we all recognize the democratic right of every Member in here to speak. Okay? So could you kindly withdraw that statement and continue.

Hon. M. Mc Donald: Madam Speaker, I withdraw. But, Madam Speaker, I have to say in my withdrawal, I want to say that in discussing—*[Interruption]*

Madam Speaker: Member for Port of Spain South, I appreciate your withdrawal. I would like to remind all, withdrawals should be unconditional. Please move on.

Hon. M. Mc Donald: Madam Speaker, I hear you and I agree with you, and I take it under advisement. Madam Speaker, in my discussion of the Regulations, because I participated in this debate in 2011 I am showing a thread that runs between not only DNA Regulations, but the DNA Act of 2012. I cannot discuss one without the other. It is like needle and thread. What is the purpose of—*[Interruption]*

Mr. Lee: But you say you are not debating 2012.

Hon. M. Mc Donald: I am not debating 2012, Member for Pointe-a-Pierre.

Madam Speaker: Member—*[Interruption]*

Hon. M. Mc Donald: You see, if you all—*[Interruption]*

Madam Speaker:—please just address your contribution to the Chair. I think you are a seasoned enough politician to rise above any sort of crosstalk. I will regulate the crosstalk, please address your contribution.

Hon. M. Mc Donald: Thank you, Madam Speaker. Madam Speaker, I will ignore them, but I what I will have to say is that in my discussion with the DNA Regulations, I will be making reference to the DNA Act of 2012.

Madam Speaker, despite all that was said in 2011 by the then Minister of Justice, we saw no use of the DNA evidence in the court of law in this country, simply because those regulations were not brought to this Parliament. So our Government's plan now is to implement the law. That is what our plan is and, by extension, that is our crime plan to implement the law. [*Desk thumping*] And despite the fact that crime and criminality would have increased over the years, and it is after 2012, there was still no move to bring those regulations to this Parliament. DNA evidence is a critical tool for the purpose of crime fighting. It is like a crime fighting tool, and the *Medical Journal Lancet* in my reading of July 17, 1993, described the DNA-based testing as and I quote:

Probably the most significant development in forensic science since fingerprinting itself, creating the possibility of uniquely identifying an individual from a single cell at the scene of a crime.

So, Madam Speaker, the main benefits of DNA evidence is the fact that it is able to stand up to rigorous cross-examination. It is not subject to the unpredictability of human testimony. It provides good evidence to show whether a person is guilty or a person is innocent. That is what the DNA evidence does. I am saying this against the background that in the early days the eye witness testimony was the basis of fighting crime in our system and this was supplemented by fingerprinting, by hair follicle analysis, by blood analysis to determine whether a person is guilty or not, but over the years the fingerprint itself became the tool that was used to decide whether a person is guilty or not. But that too, Madam Speaker,

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had its problems because a person could have altered his or her fingerprint by the use of chemicals, or some other device, but not so with the DNA and that is why it gave rise to that mechanism, that DNA evidence becoming so very important. And what is DNA? DNA is a complex chemical that carries our genetic information, I should say, put as simply as possible. It is the blueprint that contains our genetic information, and it is not easy to alter that genetic information. That is why it is such a good crime fighting tool.

As a consequence, Madam Speaker, I am saying all this to say the Regulations are intended to work hand in hand with that 2012 law on our books because what the Regulations will do is that it would tell you how the DNA is to be collected, how it is supposed to be transported, how it is to be stored, and how it is supposed to be entered into the DNA databank. That is what the Regulations ought to be doing, and this is why since 2012—that is our last outing with that Act—nothing has been done. And then they come here today and all of them pretending as if they did not know what they did back in 2012, and that is why, Madam Speaker, I had to remind them. I could not stand here, or sit here, and not remind them that they had the three-fifths majority back in 2011 and nothing was done.
[*Desk thumping*]

Madam Speaker, I will not take up too much time in terms of the sections because there are two sections here. The Attorney General said two sections why we are here, sections 23(2)(b) of the Act and section 23A(2). Those two sections are the ones that deal with the regulations. Without the Regulations these two sections would not have been operationalized and you will just have the Act there without anything being done. It is simple to read these—and I think this is what happened on that side. You all did not read this thing properly. You did not read,

and especially the Member for Caroni East. You laugh ha, ha, but that is exactly what has happened, you did not read.

8.30 p.m.

Madam Speaker, what I can tell you is that besides—[*Crosstalk*] besides all the old talk [*Crosstalk*] the additional safeguards—Madam Speaker, I am being disturbed.

Madam Speaker: Member for Port of Spain South, please continue. I am sure you could adequately protect yourself. But if you direct your contribution this way, I am sure you could rise above any, any form of disturbance. Please continue.

Hon. M. Mc Donald: Madam Speaker, yes I can but sometimes I like to seek, you know, under the Standing Orders, I like to seek your attention. [*Crosstalk and laughter*] Madam Speaker, in addition to addressing the two important sections from the Act, the Regulations go a bit further by introducing further safeguards and Part VII of the Regulations, clause 24, it deals with the storage of reference samples and crime scene materials. So one of the Members there raised an issue about there is a little place and somebody put in a refrigerator and whatnot. Member for Mayaro, I am sure the Attorney General will tell you that what you read in the Regulations there about a room and whatnot is far different from “ah lil old fridge that some policeman” told you about. Yes, I am sure it is far different.

There is also in Part II, clauses 3 to 6 which deal with role and the responsibility of the Custodian and Member for Caroni East, with respect to the Custodian, the roles and responsibilities are all laid out here. The standards to be adopted by the Custodian are laid out here in the Regulations; the preservation of the integrity of the databank, the information technology. So it is very futuristic that the Custodian must familiarize himself with the updated data and whatnot.

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But you know, I have a feeling where this want to go, you know, and I will tell you all something. Madam Speaker, back in 2012, the other side passed an Act, the Data Protection Act and I will tell you something. My research showed me that in all countries with DNA legislation, there is some form of data protection legislation also. Now, with the Data Protection Act, there were some clauses, there was just what you call a partial proclamation of about seven; seven sections were proclaimed. But there is a particular part of the Act, Part VI and that Part VI deals with the Office of the Information Commissioner. [*Crosstalk*] That is right. And under that section, the Commissioner has several roles under this Part as they relate to personal protection of citizens' information, their data. Now, Madam Speaker, if all the sections were proclaimed, what is now going on in the public domain there, that information which has just come to us from Cambridge Analytica, this would not have happened. Because—[*Interruption*]

Mr. Lee: Madam Speaker, 48(1), please. [*Crosstalk*]

Madam Speaker: Member, if you could quickly make the link to what we are doing. If not, please move on.

Hon. M. Mc Donald: Madam Speaker, what I am saying is that just as how the Regulations were not brought here, I am saying—and you could not have utilized the Act, the DNA Act, I saying in the same way, the Data Protection Act was only partially proclaimed and what has happened, what we see happening now, that infraction that has happened there with the Cambridge Analytica, if the whole Act—[*Interruption*]

Mr. Lee: Madam Speaker, 48(1), again, please.

Madam Speaker: Member, I will ask you to leave that point and go on because I do not see the relevance. Please continue.

Hon. M. Mc Donald: Madam Speaker, we are dealing with sensitive personal data as much as we are dealing with the same thing under the DNA Act.

Madam Speaker: And as I said, that I do not see the connection to the Regulations before us and I have ruled that you leave that point and move on.

Hon. M. Mc Donald: Thank you, Madam Speaker, but what I can tell you, I am seeing hemming and hawing on the other side. [*Desk thumping*] I am seeing where the other side is setting up a situation where they do not want to support these Regulations. [*Crosstalk*] And what I am saying—[*Interruption*] “Yuh all can say what you all want”, I have the right to stand here and say exactly what I say. [*Desk thumping*] “I know you all, you know, I know all of you all.” [*Continuous crosstalk*]

Madam Speaker: Member for Oropouche East. Member for Port of Spain South, as I remind you, please direct your contribution this way and rise above the banter, please, and make your contributions.

Hon. M. Mc Donald: Thank you, Madam Speaker. “Madam Speaker, ah know they excited to see me back, you know [*Laughter*] well dats all right, dats all right.” [*Desk thumping*] That is okay. But, Madam Speaker, what I am saying is that we took seven years to return to this Parliament with these Regulations and to sit here this evening from two o’clock or three o’clock, whenever we started, and to hear my colleagues on the other side trying to set up a situation whereby they are picking at it, they are picking, especially Caroni East. [*Laughter*] No, I am very serious. Looking at every little point in the Regulations when the Regulations have gone far and beyond what it should be. And I am saying that a lot of safeguards, a lot of accountability, transparency have been put in those Regulations.

I am saying, I only hope that we do not leave here this evening, Madam

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Speaker, without these Regulations going through so we will be able now to utilize that evidence, that DNA evidence, so we will be able to fight crime and criminality in Trinidad and Tobago.

Madam Speaker, with those few words. [*Desk thumping*]

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. I really—let me start off by saying, Madam Speaker, I would be very, very brief but I cannot allow the Member for Port of Spain South to get away. I welcome her back to full ministerial Cabinet position and we are happy to see her back and “she ah lil bit rusty” but we are happy to see her.

But you know, Madam Speaker, she started off her contribution, tonight— [*Crosstalk*] Madam Speaker, sorry, the Member for Port of Spain South started off her contribution on the Member for Caroni East, my colleague, where she said—the Member stated that my colleague, the Member for Caroni East, when you get older, you are supposed to get wiser. But I want to let her know, the Member for Port of Spain South, that as you get older, you tend to forget and she forgot what she said in the debate [*Desk thumping*] on this Bill, on the DNA Bill back in 2011 and 2012.

Because she correctly stated when she debated the Bill— [*Crosstalk*] the hon. Member, two individuals spoke for the Opposition side, it was the Member for Port of Spain South and the Member for Diego Martin North/East, and on that occasion, on both occasions that they spoke in the House, they voted against this DNA Bill. [*Desk thumping*] And she correctly said that the DNA Regulations that we are debating here tonight, you cannot isolate it, you have to relate it to the DNA Bill and she is correct. And the Attorney General, the Member for San Fernando West, when he piloted the Regulations this afternoon, he also referred a lot of the clauses

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in the DNA Bill, in the parent Act, so they are correct.

But on that occasion in 2011, when the Member for Diego Martin North/East, because she read in the *Hansard* about the then Minister of Justice Volney, who was the Member for St. Joseph at that time, she read his dissertation on the *Hansard* but I want to read for the record the Member for Diego Martin/North East in 2011 when that Bill—[*Crosstalk*] No, no, I have to read it, it was not read. [*Crosstalk*] He did not read it. In 2011, when the parent Bill was piloted here, the Member for Diego Martin North/East said in his opening salvo, and I quote:

“Thank you, Mr. Speaker. Let me state at the outset, just to make sure that there is no ambiguity, that I am authorized to inform the Government that...Opposition will not be supporting this piece of legislation.”

[*Crosstalk*] Port of Spain South and Diego Martin North/East in both their contributions said that. So I am very surprised that the Member for Port of Spain South could come here tonight, I thought that when she rose to debate this Bill, these Regulations, she was going to tell the Attorney General throw away this piece of legislation, throw away the DNA Bill because they did not support it in 2011 and 2012. [*Desk thumping*] So how tonight, she can come and want to support the Regulations which impacts—[*Crosstalk*] Sorry, hon. Member for Port of Spain South. It impacts on the parent Bill. So that is a little bit—I would not call it disingenuous but I think she was a bit forgetful and she needs to go back and do her work on the *Hansard*.

So I really cannot understand what the Member for Port of Spain South was talking here tonight because I really thought that she was going to bring her own amendments to these Regulations to support the Opposition because, really and truly, I cannot understand why she would support the DNA legislation now when

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she did not support it in 2011/2012.

Dr. Moonilal: Hypocrisy.

Mr. D. Lee: It is a lot of hypocrisy and then she is trying to chastise our Members on this side. So I wanted to remind—I just wanted to have a short intervention here because maybe she needs to get back—I am glad she is back in the House, and with those few words, Madam Speaker, I thank you. *Desk thumping*]

Ms. Ramona Ramdial (*Couva North*): Thank you. Thank you, Madam Speaker, for the opportunity to present on the Regulations. [*Crosstalk*]

Madam Speaker: Members, it is late. I can understand Members being very excited and animated but I think some of the behaviour that is being displayed here, by both sides, is not acceptable, it is not tolerable, and I will ask Members to continue in the spirit of camaraderie but also in a parliamentary manner. Member for Couva North.

Ms. R. Ramdial: [*Desk thumping*] Thank you. Thank you very much, Madam Speaker. Let me support your call for cooperation on both sides so that we can quickly pass the Regulations and move on. Tonight, I just want to briefly highlight some issues, not many because my colleagues previously would have done so in detail earlier. Madam Speaker, I just want to firstly say that the DNA offender databases are public safety's greatest weapons and there are a number of functions that are, of course, carried through when we create a DNA offender database. We solve crime, we prevent crime, we exonerate and we save lives.

Madam Speaker, over the years, we have seen criminal offender DNA databases formed in many different countries. First World countries taking the initiative, 20 years or more, and we have seen data from early adopters push the rest of the world forward. Fifty countries, to date, have implemented DNA databases and over

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60 million offender samples. Just with respect to statistics, databases over one million resides in countries like China, United States, United Kingdom and France. With respect to the Caribbean region, Barbados is the only Caribbean country at this point in time with a database of 2,000 persons or individuals. Madam Speaker, in addition to that, let me also add that in many other countries, both developed and developing, there is a move towards creating DNA databases to assist with respect to crime fighting and therefore, we are, of course, very much in support of the move on this side also.

Madam Speaker, what we would have heard earlier from my colleagues on both sides of the House. There are issues of operationalization with respect to the rules and regulations moving forward in creating the DNA database and the practicality and reality on the ground is that whether or not this Government can really take it forward. [*Desk thumping*] And when I say that, I make mention and I refer to the budget, the budgetary allocation because what we are seeing for the year 2018 is that \$1 million has been allocated for 2018 under institutional strengthening of the Forensic Science Centre and then—[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 55(1)(b). This was ventilated by several speakers.

Madam Speaker: Member for Couva North, I think, at this time, I will invite you to make your new points rather than us regurgitating anything that has gone. Please continue.

Ms. R. Ramdial: Okay, Madam Speaker. So in total, a mere \$5 million has been allocated and therefore, I want to ask the Attorney General, in winding up, whether these funds are sufficient to operationalize the DNA database. [*Desk thumping*] In addition to that, we have had, of course, many calls from different quarters, over

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the years, asking for databases and a proper structure in terms of aiding in crime fighting and again, I want to support the initiative and to move on from there.

Now, Madam Speaker, the real winners of offender DNA databases are victims and society at large. These are the real winners and I make reference, of course, to a popular case, Debbie Smith who resides in the US and was a victim of rape and because of this case, \$2 million was spent on forensic DNA in order to help solve cases in similar fashion, and this was termed the Debbie Smith Act of 2004. So the real winners in creating DNA databases are, of course, victims and society at large and therefore, there is no question that should be, of course, asked in terms of moving forward with respect to operationalization.

Madam Speaker, let me also identify that in Brazil, a case that caused the Congress to act was that of trying to track down serial murderer Marco Trigueiro and the Brazilian Congress, in 2006, allowed DNA to be taken from—
[*Interruption*]

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1), please.

Madam Speaker: Member for Couva North, I will give you a little leeway. Just remember what the substance of the debate is. Please tie it in.

Ms. R. Ramdial: Madam Speaker, I am just drawing reference to world cases that show the importance and highlight the importance of creating DNA databases. [*Desk thumping*] So the Brazilian Congress, of course, implemented and they were able and they identified when they implemented that if it was done earlier, that it would have been able to save many more women, the lives of women especially with respect to rape and murders. So this is a move forward, especially for our women folk in Trinidad and Tobago because we have had many women over the years raped, murdered and their crimes have gone unsolved. It has turned into a

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cold case.

Like my colleague from Couva South, I want to make reference to a victim from within my constituency, Ms. Sharlene Somai who even up to today in the *Express* newspaper, there was an article that ran, stating that her case is yet to be solved and we know how that murder took place and in very similar fashion, and I want to believe that creating the DNA database, we can have these cases reopened in the best interest of families to solve these cases of our women kind.

Madam Speaker, in addition to that, of course, my colleague from Mayaro spoke about the new technology so I will not go into that and I hope that the Attorney General is able to speak about the new technologies that are going to be implemented in operationalizing and creating the DNA database.

Now, Madam Speaker, we have seen also across the world that there is a creation of new databasing applications with respect to military, border control, immigration refuge processes and of course, other countries that may not have infrastructure, they are now being given financial aid in order to create DNA databases also and to expand.

Madam Speaker, there is also something called the next generation systems and the impact on forensic DNA policy and legislation.

Mrs. Robinson-Regis: Madam Speaker, Standing Order 48(1). There is nothing in these Regulations that is being referred to by the Member for Couva North. Nothing.

Madam Speaker: So, hon. Member for Couva North, I think thus far, you have made the point about the importance, I think that point has well been established and I therefore now invite you to deal with the Regulations that are before us, please.

Ms. R. Ramdial: All right. Thank you, Madam Speaker. Now coming back to Trinidad and Tobago—because they are very hurry to go home, I will come back to Trinidad and Tobago and then of course, I will move on. Madam Speaker, with respect to our rules and regulations here, we are operationalizing for the creation of the DNA database, there are some issues that I just want to highlight quite quickly. Firstly, the employment of qualified staff, the setting of minimum educational standards. Secondly—*[Interruption]*

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b). About three speakers on that side have spoken about these things.

Madam Speaker: Okay, so Member for Couva North, I think while I was not in the Chamber, I would have heard, in particular, the Member for Caroni East deal substantially with the forensic centre and with respect to resources, financial, personnel, et cetera, so I will ask you please to go on to another point other than those points which have already been covered by speakers on either side, unless it is in a rebuttal.

Ms. R. Ramdial: Okay. Thank you, Madam Speaker. This is, of course, a new issue that I did not really hear my colleagues raise that I would like to raise at this time and it is, of course, to provide for minimum criteria for testing facilities or to set safety standards for taking samples, especially those persons infected by diseases.

Mr. Deyalsingh: Madam Speaker, Standing Order 55(1)(b). The minimum standards were dealt with already. *[Crosstalk]*

Ms. R. Ramdial: Thank you, Madam Speaker.

[Madam Speaker stands] [Continuous crosstalk]

Madam Speaker: No wait. Until everybody composes themselves then you will continue. Okay, so Member for Couva North, I have not heard as yet where you are going with standards, if it is, I am giving you some leeway to see if it is you are covering new ground. Please continue, Member for Couva North.

Ms. R. Ramdial: Thank you. Madam Speaker, my new issue, provide for minimum criteria for testing facilities or set safety standards for taking samples of persons who can be affected by diseases and I make reference to those persons, you know, afflicted with HIV/AIDS and STDs. We did not get clarity on whether or not there are going to be different testing procedures, a different type of protocol with respect to those persons afflicted by diseases; whether or not the samples are going to be stored with other samples with respect to cross-contamination; is there a protocol—*[Interruption]*

Mr. Deyalsingh: Madam Speaker, 50—*[Crosstalk]* Mayaro dealt with that and Caroni East dealt with that, 55(1)(b), and Fyzabad. *[Continuous crosstalk]*

Madam Speaker: I think the Standing Orders are quite clear with respect to a Member raising an objection under the Standing Orders and with respect to how other Members are required to behave and with respect to what is the role and the function of the Speaker in determining a Standing Order. I wish all Members to not usurp, that seems to be a very common word today, not usurp the role of the Chair. Member for Couva North, again, I advise you, I think that point was covered and could you kindly move on.

Ms. R. Ramdial: Thank you, Madam Speaker. My second issue that I would like to raise also is that I would like to make a call for persons accused of domestic violence and abuse, that their DNA samples also be taken in the creation of the databases. *[Desk thumping]* And I say that, Madam Speaker, once a report is made

against a spouse or a relative, that it be made mandatory to take a DNA sample and it will, of course, aid to the creation of a domestic violence offenders list so that there can be greater protection for our women especially, in light of the increase of domestic violence and abuse of our women. So it is something that the AG can speak about. I do not think that it would be too costly to expand it in these areas and therefore, it can, of course, bode well for the future with respect to protection of our women.

Madam Speaker, with respect to that, I would also like to add some—okay. Madam Speaker, I beg to move that the Motion be amended by adding the following words immediately at the end of the resolution:

“subject to the following amendments before coming into operation:-

Regulation	Extent of Amendments
3(1)	Insert after the word “Databank.” the sentence “This accuracy shall be verified on a quarterly basis.”
3(2)	Insert after the words “DNA service” the words “and shall make arrangements for continuous monitoring for high performance.”
7(1)	Insert after the words “sexual offence” the words “but not more than 24 hours.”
13(1)	Insert after the words “laboratory” the words “but not longer than 72 hours.”
13(2)	Insert after the words “laboratory” the words “but not longer than 72 hours.”
15(8)	Insert after the words “Forensic Science Centre”

- the words “but not longer than 72 hours.”
- 15(10) Insert after the words “Central Authority” the words “but not longer than 72 hours.”
- 17(2) Delete the words “that period” and replace with the words “that seven day period”.
- 19(2) Delete the words “that period” and replace with the words “that seven day period”.
- 28(1) Insert after the word “upon” the words “written documented”.

I thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: Member for Caroni Central, are you seconding?

Dr. Bhoendradatt Tewarie (*Caroni Central*): I beg to second the Motion and reserve the right to speak.

Madam Speaker: Thank you. Hon. Members, I shall now propose the amendment move for by Member for Couva North and seconded by Member for Caroni Central. The question is that the Motion be amended by adding—I believe the amendment was circulated.

Mr. Lee: Yes.

Madam Speaker: Has the amendment been circulated?

Mr. Al-Rawi: Yes, Madam Speaker.

Madam Speaker: Okay.

Question, on amendments, proposed.

Mr. Al-Rawi: The question?

9.00 p.m.

Madam Speaker: I just proposed the question. Anybody else can speak.

The Attorney General (Hon. Faris Al-Rawi): Madam Speaker, on this particular amendment I rise quite interestingly to response to the Motion's amendment that is put by my learned colleague. What I find rather curious about the observations of my learned colleague, is that my learned colleague spent her entire time, prior to moving the amendment, without a single form of explanation about the particular clauses. Therefore, they come in a particular vacuum.

It is quite startling to see an hon. Member spend an entire contribution's time with a run-up to a wicket of amendments and not refer to a single rationale, prior to moving the amendments. It therefore demonstrates conclusively, in my humble opinion, Madam Speaker, that the hon. Member does not actually know what the hon. Member put to the floor. It is my submission, most respectfully, without being too pejorative, that the hon Member has failed in her duty to articulate a single ounce of rationale on these particular amendments. [*Desk thumping*]

But let me assist the Member, who I am convinced does not even know. I am convinced, it is my submission, that the hon. Member has no conscious knowledge of what has been circulated in the hon. Member's amendments. [*Desk thumping*] And I will tell you why, I will tell you why.

Let us deal with the proposal for the amendment at page 2, regulation 3(1).

Insert after the word "Databank" the sentence "This accuracy shall be verified on a quarterly basis."

Let us go to the Regulations. When we go to the Regulations themselves, Madam Speaker, just permit me to find that particular regulation. Let us look to the regulation that my learned colleague did not have the courtesy to explain to the hon. Members of this House. The hon. Member is asking us as a House to deal

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with the roles and responsibilities of the Custodian by causing an amendment to 3 subclause (2), such that the words read as follows:

“The Custodian shall at least once a year conduct an on-site visit to the Forensic Science Center to ensure that the Forensic Science Center has the capability to perform the requisite DNA services.”

And the Member's amendment is:

“and shall make arrangements for continuous monitoring for high performance.”

Most respectfully, the words are otiose, because there is continuing obligation on the part. Under the Interpretation Act it is trite law that the law continues to speak. And, therefore, the amendment, most respectfully, for an hon. Member who has been here this long, the hon. Member ought to know that the proposed amendment is otiose. For that reason, I find it difficult to support it. [*Desk thumping*]

Let us deal with the second amendment to clause 3(2), where the hon. Member says that there should be included at the end similar words:

“and shall make arrangements for continuous monitoring...”

Again, it is the same argument as to the law speaking continuously. Most respectfully, there is no need to treat with it. It is inelegant and otiose.

Let us deal with the third amendment. The hon. Member asked, and listen to the gravity of why I am convinced the hon. Member does not know what she has put before the Parliament. The hon. Member says that clause 7(1) should be amended. But the hon. Member spent time to tell us there is an increase in domestic violence, that the law should in fact include an obligation that persons accused of domestic violence have their DNA samples taken. Number one, section 13 of the parent Act, subsection (1) already requires the persons detained, suspects

or accused, to have their DNA samples taken. Let me read that for the record. The law says in pellucidly clear terms at section 13 of the parent law as follows:

“13(1) Subject to subsection (2), a police officer or qualified person shall take a non-intimate sample from a person without his consent where—

(a) the person is a suspect, detainee or accused;”

And then hear this. In the context of the amendment moved by my learned colleague, the hon. Member is asking in clause 7(1) of the Regulations for an amendment to 7(1). And 7(1) deals with taking a sample from a complainant. A complainant is defined in section 18 of the Act as treating solely with persons who have been the victim of sexual offences, rape. Clause 7, in treating with the nexus to section 18 of the Act, section 18 says this:

“18(1).Where a report of the alleged commission of a sexual offence is made a police officer shall, without delay, make arrangements for a qualified person to examine the complainant.”

And then it goes on to say that the complainant must give consent. So section 18 was that exception to the no-consent provisions, because we are treating with the victim.

And I remember vividly in the Senate, as I sat then in Opposition, the debate that went on about not putting the victim through double jeopardy. We were talking about the psychological condition of the complainant, the trauma of domestic violence, the very thing that my learned friend just referred to and had no knowledge that the law actually spoke to in section 13. But the hon. Member proposes here that, in clause 7, that this complainant, this victim of a sexual offence, must:

“7(1) Where a reference sample or crime scene material is to be taken

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from a complainant, the investigating officer shall arrange for a qualified person to take the sample as soon as practicable, after the complainant reported the alleged commission of a sexual offence.”

But not more than 24 hours.

Madam Speaker, let me explain that. The hon. Member is saying to the very class of people that the hon. Member said she had concern for, victims of sexual offences, domestic violence, compel them to have the sample taken in 24 hours. Because what happens if you do not do it within 24 hours, hon. Member? What does a defence attorney say? “No. This person who is accused of the rape has to be exculpated because Parliament in its wisdom, proposed by the Member for Couva North, in defence of women and domestic violence, mandated that you had to take the sample within 24 hours.” And because you did not do it within 24 hours, the case is going to fall. I mean Madam Speaker, a more obnoxious [*Desk thumping*] submission that is the exact opposite of defence for women, the exact opposite of victims of domestic violence, you could not have had other than the submission coming from the Member for Couva North. [*Desk thumping*] And that is why I said so bold-facedly tonight that I am convinced that the hon. Member did not author these amendments and does not have a clue as to what she is saying. [*Desk thumping*] And I take objection.

Ms. Ramdial: Would the Member give way?

Hon. F. Al-Rawi: I take objection.

Ms. Ramdial: Would the Member give way? Would the Member give way?

Hon. F. Al-Rawi: I take objection, Madam Speaker—

Ms. Ramdial: Would the Member give way?

Hon. F. Al-Rawi:—to this sort of positioning.

Ms. Ramdial: Would the Member give way?

Hon. F. Al-Rawi: No.

Ms. Ramdial: There you go.

Hon. F. Al-Rawi: So, Madam Speaker, you see when Members stand and talk for talking sake and pretend that they are giving recommendations to the honourable House for the benefit of the people of Trinidad and Tobago, they must have the courtesy of at least reading the parent law. [*Desk thumping*] They must have the courtesy of doing more than pretending that you are standing up for the rights of victims. So, Madam Speaker— [*Interruption*]

Madam Speaker: Order! Order!

Hon. F. Al-Rawi: Madam Speaker, I cannot, for the life of me, as a responsible parliamentarian, having the privilege temporarily as I do, in the history of mankind to be the Attorney General, I cannot support an amendment of the type raised by my learned colleague. [*Desk thumping*]

Madam Speaker, it goes on. The hon. Member proposes, in the amendment to clause 13(1), clause 13(2), clause 15(8), clause 15(10). I will stop there, the same formula of words. That is, that we insert the words “but not longer than 72 hours” for the Forensic Science Centre to actually conduct its testing for a reference sample in clause 13(1); that the Forensic Science Centre must take no longer than 72 hours for the testing of a crime scene submitted to the Forensic Science Centre in clause 13(2); that the Forensic Science Centre must take no longer than 72 hours to match a profile under clause 15(8); that the central authority must take no longer than 72 hours to conduct the transmission of documentations under an MLAP request, under the Mutual Legal Assistance Provisions of the parent law; that the hon. Member also proposes, in the round therefore, that the same pitfall that I have

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just referred to, the consequence of what happens if you do not make 72 hours. What happens next? Parliament in its wisdom, on the recommendation of the Member for Couva North, well thought out, says to the country if you cannot do this within 72 hours, case done. Throw it out. I mean, Madam Speaker, I take deep offence.

Ms. Ramdial: Would the Member give way?

Hon. F. Al-Rawi: Yes.

Ms. Ramdial: Would the Member give way? Attorney General, can you explain what are the challenges for these samples not to be taken in 24 hours and 72 hours?

Hon. F. Al-Rawi: Yes, I will. Madam Speaker, my learned colleague caused me to pull up the debate on February 07, 2012, in the Senate on the DNA 2012 Act. And there was chapter and verse of exchange between the hon. Member, then Attorney General, Anand Ramlogan and me on the DNA Custodian, on the need for ISO certification, on the need for time frames and prescriptive points. And here is what AG Ramlogan said the policy of the UNC was:

“With respect to the issue of accreditation, you would see that we have embarked on a programme of rigorous training at the Forensic Science Centre, and we are very comfortable. ...United States...company... does regular testing...”—for us.

We do not need to have assistance.

The hon. Attorney General goes through to say over and over again that the reality is, and I read from page 398 of the *Hansard* contribution on Tuesday February 07, 2012.

“...we have been looking...The reality is that we have for some time now been utilizing the services of Collaborative Testing Services which is an

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accredited institution out of the United States...We are quite happy as a Government and satisfied, because the services under the old law that they have been providing in the courts have stood the test of time, withstood rigorous cross-examination, and there has never been a complaint or challenge to credibility...”

The hon. Attorney General says that:

“It was never there in the 2007 legislation; it will not be here now and it will not continue to function...”

Dr. Tewarie, in relation to accreditation, said:

“I was just going to say the insistence on accreditation within legislation is not necessary, and there is nothing that prevents legislation which includes an already established body, nothing that precludes that institution mentioned in the legislation from seeking accreditation afterwards. It need not be legislated.”

And then, hon. Attorney General—[*Interruption*]

Dr. Tewarie: Would the hon. Member give way?

Hon. F. Al-Rawi: Sure.

Dr. Tewarie: We are dealing now with regulations and we were dealing then with legislation. As you yourself will agree, they are two separate matters. And the Regulations are where the issue of accreditation and all those matters should be included.

Hon. F. Al-Rawi: Sure. So I welcome the hon. Member for now agreeing upon the saying yesterday was yesterday and today is today.

Dr. Tewarie: No, that is not what I said.

Hon. F. Al-Rawi: Because what is genuinely the position of the hon. Members

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opposite, [*Desk thumping*] what is the genuine position of the hon. Members opposite is put in everything that we did not dare to think about in 2012, put in everything that should be chapter and verse. You do not need it in legislation. Madam Speaker, I read legislation to mean primary, secondary, statutory instruments. I mean, that was a categoric statement on behalf of the hon. Members.

But what I take offence to, and in answer to the direct question of the Member for Couva North, Madam Speaker we have just heard hon. Members opposite talk about capacity, manpower; talk about provisions. And now they are suggesting to the Government to put in prescriptively short time frames for turnaround, where the complaints coming out of the left side of the mouth is “Yuh doh have manpower, how yuh going to operationalize it? We would not see anything.” And then put a short time frame on the other side of the mouth. Madam Speaker, we are bringing to life, for the first time in 18 years, now 19 years, DNA legislation. [*Desk thumping*]

The Regulations which we have brought ought to be confined to two issues in sections 23 and 23A of the parent Act. Everything else that we have put in, is to ensure tightening up. They are not prescriptive for a purpose. The formula, as soon as is reasonably practicable, is done so that the court can take knowledge and take account of the fact that time frames may be extended for extenuating circumstances.

The quality of evidence, the standard of proof are two separate issues. If evidence is going to be deprecated, if I can use that expression, it falls down to the weight of the evidence. And, therefore, we do not need, in the subsidiary legislation, all the much more so, to go into the prescriptive formulae.

Madam Speaker, my learned colleague has two more recommendations. The hon.

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Member suggests that we amend clause 19(2) and clause 28(1), so that in 19(2), we ensure that the words seven-day period are provided. Listen to what clause 19(2) says, Madam Speaker. Clause 19 (2), and this is again evidence and proof positive that my learned colleague did not author these amendments and has no understanding of what is on the table. But clause 19—[*Interruption*]

Mr. Lee: Madam Speaker, just on a point of clarification, please.

Hon. F. Al-Rawi: But clause 19(2) says:—

Madam Speaker: If your friend does not give way, I cannot intervene.

Hon. F. Al-Rawi: Yes.

Mr. Lee: Madam Speaker, I just want to find out, is the Attorney General winding up this debate, or is he speaking on the amendments of the Member for Couva North?

Hon. F. Al-Rawi: On the amendments.

Mr. Lee: But he cannot speak twice.

Hon. F. Al-Rawi: Thank you. My learned colleague is a little green, so I appreciate it.

Madam Speaker: Well, in fact the Attorney General is speaking on the amendments and winding up. This is under Standing Order 46. Nobody else stood up. So I called on the Attorney General. So he is speaking on the amendments in his winding up.

Hon. F. Al-Rawi: Thank you. So, Madam Speaker, my learned colleague proposed the amendment to clause 19. But listen to what clause 19(2) says:

“The senior immigration officer”—just as an example—“in charge of a port of entry or place of detention”—et cetera—“shall every seven days, forward a log of every entry made during that period...”

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The hon. Member says change the words “that period” to “that seven-day period” I mean, what on earth is the point of the submission? Let me repeat that. The obligation on the part of the officer is that “under sub-regulation (1), shall every seven days, forward a log of every entry made during that period...” The hon. Member says change “that period” to “that seven-day period”

Madam Speaker, here is the one that catches me. The last amendment by my learned colleague, in relation to clause 28(1). In relation to clause 28(1) and 28(1), if you permit me to read it, treats with, Madam Speaker, disclosure of DNA evidence. My learned colleague says, insert into clause 28(1) the words "written documentation". Clause 28(1) says:

“Where the Custodian is authorized to disclose DNA data stored on the Databank, the disclosure shall be made either upon request or by Order of the Court.”

And the hon. Member says instead of saying “upon request”, put “upon written documented request”. Well, good Lord God.

Madam Speaker, let me tell you why I say that. Listen to the depth of research by my learned colleague. Clause 28(1) says this, it is in reference to the word “request”. Had my learned colleague bothered to read the parent Act or bothered to read the Regulations or bothered to read the Schedules to the Regulations, my learned colleague would definitely have known, number one, the parent Act requires a request; number two, regulation 15(19) requires to make a request, you must use Form 1. That is written, in case you did not know, my learned colleague. And regulation 28(2) requires you to use Form 2, and Form 2 is written, my learned colleague. You cannot speak out Form 1 or speak out Form 2, with the greatest of respect.

So I wonder if my learned colleague has even a conscious reflection of what the hon. Member is putting on to the floor. It makes absolutely no sense. It is embarrassing. It betrays any form of homework or diligence. And I think my learned colleague has been set up. [*Desk thumping*] She has been set up. And I take umbrage on behalf of an honourable lady like the Member for Couva North, good person that she is, for the fact that she has been set up tonight and “ah doh know who set her up”. But whoever set her up please do your homework. Read the Regulations. Read the parent Act. How could you do this?

Madam Speaker, normally I would blame the Member for Naparima. Normally I would blame the Member for Oropouche East, but they look innocent. They look innocent tonight. The Member for Naparima is not even here. But, Madam Speaker, all that I could say is that this is an incredible submission.

Member for Couva North, through you Madam Speaker, “doh take no basket from nobody”. [*Desk thumping*] If they want to put recommendations, let them put it in writing themselves. Do not be immortalized on the *Hansard* as making a submission which can be rubbished, Madam Speaker, with the greatest of respect.

Madam Speaker, my learned colleagues, the Members for Chaguanas East, Fyzabad and Caroni Central, all made submissions relative to the Custodian and to the provisions and qualifications, et cetera. With respect to the Custodian, my learned colleague, the Member for Caroni Central asked the question whether the Custodian, and I did not think he was being insincere in bringing to bear the gravity of whether the Custodian was one person or not.

But section 8 of the parent Act is very clear about the appointment of a Custodian as a public officer, about a Deputy Custodian, about such staff and members as may be given and financing, et cetera, therefore, providing the

structure for an operation, much like the Financial Intelligence Unit and the fashion that we did there, much like the Strategic Services Agency. There are numerous examples in law as to how that works. And, Madam Speaker, I dare say that that ought to satisfy the position.

In the debate in 2012, when we were passing the parent Act, there was no form of conscious reflection that there should have been any provision of qualifications. However, I wish to comfort my learned colleagues that if you put in the provisions of section 8 of the parent Act, against section 10 of the parent Act, and you combine what is required of the DNA Custodian, you will see that they must be circumscribed by the roles and responsibilities. The fact that the CPO has to treat with the terms and conditions is going to be in reference to those two sections of the Act. And, therefore, there is prescriptive formula that can be given as to what the Custodian will be asked to do.

My learned colleagues also asked about: Who appoints the Custodian? The hon. Member for Cumuto/Manzanilla, the Custodian is appointed as a public officer under the Public Service Commission. And that is spelt out in the law. The position of the current person in section 8 is as a contract officer, where there is no appointment prior to the first one, meaning that the Minister has the prerogative to employ upon contract the position. And that is pellucidly clear again in the legislation.

Hon. Members asked about the role of IT. The hon. Members ask that the IT be managed carefully. I wish to point hon. Members to section 24(2)(b), section 29 and section 30 of the parent Act, all which treat with the breaches of confidentiality. There is heavy criminalization in the parent Act for the breach of criminality and that is to be found at section 30 of the parent Act.

Section 30 says:

“30(1) A person who wilfully and without authorization—

- (a) gives false information as to the existence of a DNA profile...;
- (b) discloses or obtains DNA data, or DNA profiles;
- (c) breaks the seal of or opens or causes to be opened any package;
- (d) in any manner tampers with or destroys a sample or the container or package containing a sample;
- (e) adds, deletes or modifies any information in the Forensic DNA Databank;
- (f) falsifies information required under this Act;
- (g) gains or attempts to gain access to the Forensic DNA Databank;
- (h) gains or gives access to a non-intimate...;
- (i) uses a non-intimate or an intimate sample, or
- (j) fails to submit DNA profiles to the Forensic DNA Databank, commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars and to imprisonment for seven years.”

So, most respectfully, the parent Act provides for the safeguards against duplication, against tampering, against abuse, against things of the type that the Member for Cumuto/Manzanilla spoke about. And it is set out in the law. That is, of course, done by way of reference to section 24 of the Act as well.

The hon. Member for Caroni East raised a very interesting submission, and I think it is deserving of clarification. The hon. Member asked about the provisions of the persons listed in the Third Schedule of the parent Act, and those are:

- “(a) an officer Protective Services;

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- (b) a member of the Municipal Police Service;
- (c) a member of the Special Reserve...;
- (d) a constable within the meaning of the Supplemental Police...;
- (e) a member of the Defence Force;
- (f) a Customs...Customs and Excise...;

Immigration Officer;

“(g) a private security officer.”

Those people contained in the Third Schedule, pursuant to section 15 of the parent Act, they are obliged to give a sample and the sample may be taken, pursuant to section 22, coercively and without consent.

And the hon. Member asked a question as to why the Regulations did not treat with that. And I can tell the hon. Member that the reason why we did not insert that into the Regulations is because of the wording of section 15 of the parent Act.

Section 15 of the parent Act says a person specified in the Fourth Schedule shall make arrangements, that is the supervising officers of all of those law enforcement and protective services people; that is the Fourth Schedule. A person specified in the Fourth Schedule shall make arrangements for the taking of a non-intimate sample by a qualified person. And, therefore, the protocols under the heads of department, the general provisions for transportation and storage, which are in the Regulations and parent law, they all form part of that supervisory capacity. But because we were not treating with persons who were otherwise vulnerable, meaning somebody who is detained, somebody who is deported, somebody at mental health institution, a child at a child rehabilitation centre, we treated with all of those in the sections where we treat with them in the Regulations. But there was

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no need in the Regulations, because of the compulsory nature of section 15 of the Act, coupled with the general provisions for storage and transportation and heads of departments operating. There was no need to prescriptively treat with that. And that is the rationale for its exclusion from the Regulations.

Dr. Gopeesingh: Would you give way?

Hon. F. Al-Rawi: Yes, please.

Dr. Gopeesingh: What about the members of the armed service, in terms of how do you intend to deal with that that? By volunteer or by—

Hon. F. Al-Rawi: Sure. In both fashions, voluntarily, pursuant to section 13 and compulsorily, pursuant to section 15. Compulsorily is managed by way of the heads managing it. So, for instance, under section 123A of the Constitution, it is the Commissioner of Police that has the managerial power over the police officers. And the Commissioner of Police constitutionally has the authority to treat with his members who offend against the Act.

But, as I just read out, section 30 of the Act provides for an offence if you refuse to give the sample in those circumstances. So that is why, because it was a different species, because it was the State end of it, that we chose to treat with it in the manner that we did.

Madam Speaker, let me just put some of these numbers into play. Number of police officers that we have currently, this is my up-to-date information 6,839; number of prison officers, 3,329; number of persons in the Defence Force, 5,052; number of fire officers, 2,190; number of immigration officers, 375; number of customs officers, 306; total 18,091. And in ordering—and thanks for teaching me how to pronounce the word. I thought it was “bu-ccal”. It is “buc-cal” as I have heard you say, and we researched it as well, so I thank my learned colleague.

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In ordering 15,000-plus buccal swabs, what we have had is an immediate ability to put the entire protective services on the database. We have an immediate ability to put 3,832 persons convicted and persons on remand unto the database. We have an immediate ability to put 1,000 arrestees per month. And by the time you work out the numerical accumulation on a go forward basis of 1,000 arrestees per month, we are populating a database. But here is the best part, Madam Speaker. The population of 15,000 can be done within six weeks. Six weeks, we can have the DNA Databank up and running.

And hon. Members asked about manpower and positioning, et cetera. Permit me to say, you know what was the savagery about this law being allowed to lie without implementation? The savagery is that the cost of the IT solution is such a small cost. The cost of the IT solution is \$1,250,000 to upgrade the ICT infrastructure. Let me repeat, TT \$1,250,000 to upgrade the ICT infrastructure.

Here is the cost of the buccal swab, TT \$20.92 for the kit. Three hundred and something thousand dollars, plus \$1.2 million.

9.30 p.m.

Madam Speaker: Your 30 minutes are now spent. You are entitled to 15 more minutes, if you wish.

Hon. F. Al-Rawi: Sure, I do not intend to use all, Madam Speaker, but thank you. So, I was referring to the savagery, \$1.25 million for the ICT, three hundred thousand odd plus for the 15,000 swabs, six weeks to build the database, two sections of the parent Act that required regulations, two sections.

Listen to the people who have to be qualified and hired. We need 11 people to run this division, a Custodian; Deputy Custodian; Databank Analysts; Databank Specialist; Information and community Technology Support Officer; two Business

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Operating Assistants II, that is the level II; Business Operations Assistant I, we need two of them; a Driver, one; Hospitality Attendant, one; a total of 11 persons, imagine that.

Madam Speaker, for under TT \$5 million, a little bit of hard work, a little bit of prescription, a little bit of care and compassion for the victims of sexual offences, for murder—because there is blood at crime scenes often, and we can analyze the blood, et cetera, for small money, and let me tell you why I say that.

Madam Speaker, for small money, because the government expenditure for the five-year period 2010 to 2015, across the Ministry of Justice, Ministry of National Security was a total of \$22,927,938,071 but for under \$5 million, one trip to the LRC, one trip to the Parliament at the House level before we get to the Senate and we could have operationalized this law. And therefore, when I hear my learned colleagues opposite go in the public platform with somebody they call the wheel man; There is a fella who does promotional positions for the United National Congress well known in the public. The public calls him the wheel man, takes a big wheel, spins it and comes up with a position, no plan, no plan, no plan. Sometimes a gentleman who is always stuttering and looks as if he is about to have a heart attack when he is talking, this particular individual, the wheel man as they call him in public, is a most incredible person, in offering a theory that this Government does not have a plan.

Madam Speaker, let me connect the dots. When you spend your first two years analyzing the roadblocks, bringing forward an architectural connection in the criminal justice system which says let us treat with the systemic issues; let us put in rules in the criminal justice arena; let us put in regulations under the parent laws; let us put in divisions of the court; let us decriminalize traffic offences and move

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them to violations, moving hundreds of thousands of matters out; let us deal with spot speed cameras; let us put eyes everywhere as a campaign which will be led by the Ministry of National Security within the public spaces will demonstrate; let us bring plea bargaining legislation; let us abolish preliminary enquiries; let us bring forward a public defenders system; let us bring forward a national prosecution agency; let us analyze the backlog of who we are, what we are and then you come to operationalize laws like this.

Madam Speaker, that is the furthest thing from having no plan. You want me tell you what no plan is. [*Desk thumping*] No plan is having DNA laws passed since 2012.

Hon. Member: This is right.

Hon. F. Al-Rawi: Sitting down not spending \$5 million, cannot draft two regulations, do not care to draft two regulations quite frankly, and then just stand up and say a whole set of things. Spin a wheel, literally spin a wheel.

Hon. Member: That is no brain.

Hon. F. Al-Rawi: Madam Speaker, I would like to say, particularly, when next we come to the House and we deal with yet another cornerstone piece of law that we intend to treat with, and when we unveil the anti-corruption package to treat with following money which is near perfect completion, we will be radically transforming the State and system of Trinidad and Tobago. [*Desk thumping*]

So, Madam Speaker, I take no solace in ill prepared amendments, “take ah basket amendments, doh bother to read it regulations, what is the parent law, what does that mean, doh read ah section in the parent law, somebody type up ah paper, put yuh name on it, good to go.” [*Interruption*]

Madam Speaker, respectfully, I need very little advice from my friends

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opposite. I welcome their thoughts and submissions. Sometimes we get good submissions and when they are volunteered, we happily take them. But tonight is not one of those occasions.

So in the round, in answer to my learned colleague, the Member for Couva North, or sorry I should not say that, in answer to whomever passed the piece of paper to the Member for Couva North and put “ah” name on it, as to proposed amendments, respectfully, resoundingly, no thank you.

In answer to my learned colleagues that we sit down and tinker and play some more, and put in terms and conditions which on the *Hansard* record were not required to be put into legislation in 2012, but now all of a sudden have to be put into legislation in 2018, no thank you, Madam Speaker, and I beg to move. [*Desk thumping*]

Madam Speaker: Hon. Members, I will first put the question on the proposed amendments.

Question, on amendments, put.

Hon. Member: Aye. [*Laughter*]

Madam Speaker: Order! Order!

Question negatived.

Madam Speaker: Hon. Members, I now put the question on the original Motion.

Question put and agreed to.

Resolved:

That the Administration of Justice (Deoxyribonucleic Acid) Regulations, 2018 be approved.

ADJOURNMENT**The Minister of Planning and Development (Hon. Camille Robinson-Regis):**

Thank you very kindly, Madam Speaker. I beg to move that this House do now adjourn to Friday the 13th day of April at 1.30 p.m. at which time we will do a Bill entitled an Act to make jurisdiction for criminal matters exercisable in a division of the High Court to be known as “the Criminal Division” and to make jurisdiction for criminal and traffic matters exercisable in a division of Summary Courts to be known as “the District Criminal and Traffic Courts” and to make provision for matters connected therewith.

Madam Speaker: Hon. Members, there is one matter that qualifies to be raised on the Motion for the adjournment of the House. I now call upon the Member for Pointe-a-Pierre.

**Mt. Pleasant Government Primary School
(Failure to Reopen)**

Mr. David Lee (*Pointe-a-Pierre*): [*Desk thumping*] Thank you, Madam Speaker. I rise on a matter of the adjournment, the failure of the Ministry of Education to take adequate action in a timely manner to ensure the reopening of the Mount Pleasant Government Primary School which has been closed since January 15, 2018.

Madam Speaker, the matter which I seek to raise this evening is the failure of the Ministry of Education to take adequate action in a timely manner to ensure the reopening of the Mount Pleasant Government Primary School which has been closed since January 15, 2018.

Madam Speaker, the record will show I would have filed this matter on Wednesday the 28th of March, 2018, because up until that point, almost three months since the school was shut down, no rehabilitation work has been taking place to fix the severe issues facing the Mount Pleasant Government Primary

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School.

Madam Speaker, as I raise this matter today, I am aware that only a few days ago, on April the 3rd, a contractor began works on the school. Some parents of students of this school have indicated that the work which began last week should be completed by the end of this week as it is a simple soakaway system that they are installing, a simple procedure which parents and other officials of the school recommended to the EFCL since January when the school was shut down. Therefore, Madam Speaker, the question must be asked: Why did it take the Ministry of Education almost three months to act? Why could this simple procedure not be done during the month of January or even February as opposed to waiting until April?

However, Madam Speaker, I am continuing to raise this issue to firstly highlight the inconvenience and hardships that students, teachers and parents of this school have faced since its closure, and secondly, given the Minister's broken promises in the past three months, it is warranted that I raise this issue to ensure that every inch of repair work that is needed to be done on this school be undertaken in the time of the new school term to be reopened on April the 16th.

Madam Speaker, this matter is quite significant and critical as it has affected hundreds of students and parents in my constituency of Pointe-a-Pierre within the past months, resulting in great discomfort, great anxiety for those affected and a deeply threatening academic stability of these students' future.

The Mount Pleasant Government Primary School which has 224 students, 22 of whom are carded to write the secondary entrance exam in May of this year was shut down in January 15, 2018, due to students and teachers complaining about a horrid stench emanating from the school's sewer system. As a

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result of this, it was decided that it was in the best interest of the students' and teachers' health especially as these conditions violate the OSHA standards required for teachers to work in, that the school be shut down until repair works were done.

Madam Speaker, since then, the infants' department, first year and second year had no classes. Standards 1 to 4 were relocated one month after the school's closure on February 15th to the Macaulay Masjid but then that came to an end on March 22nd, when the Macaulay Masjid sewer system could not handle the influx of those students in Standards 1 to 4.

The SEA classes were transferred to an already large student population in the Union Presbyterian Primary school on the 19th of March, 2018. Parents said that of the 16th of January, one day after the school was shut down, engineers at the EFCL visited the school and within one day of inspecting the situation, they decommissioned the sewer system.

After receiving complaints from various parents from my constituency, I posed an urgent question to the Minister of Education in this Parliament on the 2nd of February, 2018, in an effort to find out when this issue would be rectified and he responded by saying and I quote:

“EFCL is currently preparing a scope of works for both a short term and long term solution to the problem, the short-term solution involves the use of plastic septic tanks and a filtration system which can be completed in approximately one week.”

Madam Speaker, that was on the 2nd of February, 2018. Contrary to the statements of the Minister that repairs could be done in one week's time, it is now two months since this answer was given to this Parliament and the school is yet to be reopened since its closure in January 2018. It is unacceptable that this has taken

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the Minister and his Ministry nearly two months since he gave this answer, to take this action.

Madam Speaker, one of the major issues for the parents was the fact that this was not the first time the school has been forced to close as a result of this faulty sewer system. In March 2016, the students, teachers and parents were faced with the same situation when the school was forced to close for over three weeks. In 2016, this even resulted in blocking the roads in Claxton Bay due to this issue.

Madam Speaker, many parents have said that like 2016, the issue facing the school today has been caused by a lack of regular maintenance to the sewer system. As a matter of fact, parents have said that the system is supposed to be serviced every two months by EFCL, but the last time the sewer system in the school was serviced in 2016, when it was repaired due to a total shutdown.

Madam Speaker, again in October 2017, the school was forced to shut down for over three weeks over an electrical wiring problem and poor maintenance of the school.

Madam Speaker, so on behalf of my constituents who teach or have children attending this school, I ask: Why was the Ministry and the Minister of Education consistently neglecting the maintenance and well-being of this school? Why have they always allowed it to reach to a stage of closure on each occasion?

Madam Speaker, we have seen money become available to fix the Brian Lara Stadium, to purchase paintings, money even used to pay cases of misconduct at Ministries, yet schools are being deprived. This Government is funding frivolous activities at the expense of our children's future which is very shameful.

Madam Speaker, we must understand that while those in authority fail to act, the students of Mount Pleasant Government Primary School are falling behind in

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the syllabus. Many parents have expressed concerns as students may not be promoted because they have not prepared, given the number of topics that they are unable to cover.

I wish to thank the Macaulay Masjid for their assistance and I call on the Minister of Education to assist this mosque in some form of compensation for giving those students a home while his Ministry failed to do so.

Madam Speaker, another entity that must be thanked for assisting during this period is the Union Presbyterian Primary School, who has taken in the SEA students during this ordeal. This school was already highly populated but still they were able to help out.

Madam Speaker, as a Member of Parliament for Pointe-a-Pierre, on behalf of the students, parents and teachers of the Mount Pleasant Government Primary School, I call on the Minister to ensure all work is promptly completed given that some work began last week to rectify the situation in an effort to have the school reopened when the new school term begins on April 16th.

In closing, I give this nation a commitment that when the UNC, led by the hon. Kamla Persad-Bissessar returns to office, the issue of school closures, lack of school maintenance and inadequate education facilities will be eradicated. I thank you. [*Desk thumping*]

The Minister of Education (Hon. Anthony Garcia): Thank you very much, Madam Speaker. I begin my contribution by simply stating that the Member for Pointe-a-Pierre ended in a pipe dream, when he kept saying, when the Kamla Persad-Bissessar returns to office. That will not be seen in the distant future. [*Desk thumping*]

But, more than that, Madam Speaker, this Motion is based on false

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assertions, it is based on a total lack of information, and it is grounded in a lack of truth.

Let me lay bare the facts, Madam Speaker. It has been asserted that the Ministry of Education did not take action or as the preamble to the Motion said, the failure of the Ministry of Education which is totally false.

By his own admission, Madam Speaker, the Member for Pointe-a-Pierre stated that the problem that the school was affected with, and that is a leaking sewer, that was identified on the 15th of January. On the 16th of January, EFCL was mandated to visit the school, which they did and immediately they set about preparing a scope.

Madam Speaker, just let me give a little description of the school and the sewer system the Mount Pleasant Government Primary School is situated on a hill. In fact, the sewer system is constructed at the base of the slope, the topography of the hill is extremely challenging, and because of these reasons it is oftentimes very difficult to effect immediate and timely repairs to a sewer system.

The Ministry of Education, Madam Speaker, received a bill of quantities and a detailed scope of works on February 6th. This is after EFCL had the quantity surveyor visit the school, inspect the problem and with other engineers and persons from the Ministry of Education, they were able to come up with a detailed scope of works and this was submitted on the 6th of February in a very timely fashion.

Upon receipt of this bill of quantities, the Ministry of Education sat down and decided how best we can deal with this situation. The question was whether we were going to effect a total refurbishing of the sewer system and that would have taken at least eight weeks, or whether we would put in place a temporary measure. It was decided that we are going to put in place a temporary

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measure and the more detailed and permanent structure with respect to the sewer would be done during the July/August vacation period.

I am pleased to report, Madam Speaker, that a temporary measure has been put in place and I give the assurance, I repeat, I give the assurance that that will be completed in time for the reopening of school on 16th of April at the beginning of the third term and therefore I can tell the representative for Pointe-a-Pierre that he has no need to worry.

But in addition to that, we have been informed, and we are very grateful that the principal and members of staff have been doing everything possible to ensure that the children are not disadvantaged. The quality of education that this Government is prepared and committed to offer our children is being taken care of by the principal and teachers of that school.

Madam Speaker, come July/August vacation period again, I want to give the Member for Pointe-a-Pierre the assurance that the permanent feature of this problem would be put in place so that once and for all this problem will rest. Thank you very much. [*Desk thumping*]

Question put and agreed to.

House adjourned accordingly.

Adjourned at 9.53 p.m.