

HOUSE OF REPRESENTATIVES

Friday, March 05, 2021

The House met at 1.30 p.m.

PRAYERS

[MADAM SPEAKER *in the Chair*]

LEAVE OF ABSENCE

Madam Speaker: Hon. Members, I have received communication from Mr. Rushton Paray, MP, Member for Mayaro who has requested leave of absence from today's sitting. The leave which the Member seeks is granted.

PAPERS LAID

1. Annual Audited Financial Statements of the National Gas Company of Trinidad and Tobago Limited for the financial year ended December 31, 2019. [*The Minister of Health (Hon. Terrence Deyalsingh)*]
To be referred to the Public Accounts (Enterprises) Committee.
2. Report of the Auditor General of the Republic of Trinidad and Tobago on the Financial Statements of the Port of Spain Corporation for the year ended September 30, 2011. [*Hon. T. Deyalsingh*]
To be referred to the Public Accounts Committee.
3. Administrative Report of the Trinidad and Tobago International Financial Centre Management Company Limited (TTIFCMCL) as at September 30, 2019. [*Hon. T. Deyalsingh*]
4. Annual Report of the Financial Intelligence Unit for the year ended September 30, 2020. [*Hon. T. Deyalsingh*]
5. Annual Report of the Equal Opportunity Commission for the fiscal year 2015. [*The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi)*]

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6. Report of the Cabinet Sub-Committee appointed to Review the Operations of the Water and Sewerage Authority and to determine a Strategy for enabling the Authority to Achieve its Mandate. [*The Minister of Public Utilities (Hon. Marvin Gonzales)*]

URGENT QUESTIONS

Rent Owed for Councillors' Offices (Government Release of Funds)

Mr. Davendranath Tancoo (*Oropouche West*): Thank you, Madam Speaker. To the hon. Minister of Rural Development and Local Government: In light of possible evictions of councillors by landlords for non-payment of rent, could the Minister inform the House when will money be released to regional corporations to pay outstanding rent for councillors' offices?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, on behalf of the Minister of Rural Development and Local Government this matter is engaging the urgent attention of both the Ministry of Finance and the Ministry of Rural Development and Local Government and will be resolved in the shortest possible time.

Madam Speaker: Supplemental, Member for Oropouche West.

Mr. Tancoo: Is the hon. Minister aware that this rent has been outstanding for in excess in some instances of over 10 months?

Madam Speaker: Leader of the House.

Hon. T. Deyalsingh: Thank you. I do not have the exact length of the arrears, but I do assure the hon. Member that as I said it is engaging the utmost attention of both the Ministry of Finance and the Ministry of Rural Development and Local Government. Thank you.

Madam Speaker: Supplemental.

Mr. Tancoo: Can the Minister put his assurances in writing so that landlords can

be assured of payment and that councillors can also be assured that they will not be evicted for lack of payment of rent by the Government's failure to release funds?

[*Desk thumping*]

Hon. T. Deyalsingh: Thank you, Madam Speaker, my assurance is on the *Hansard*. Thank you very much.

Fake PCR Negative Tests (Details of)

Mr. David Lee (*Pointe-a-Pierre*): Thank you, Madam Speaker. To the Minister of Health: Given a recent report which revealed that foreign individuals were allegedly granted exemptions to enter Trinidad and Tobago using “fake” PCR negative tests, could the Minister confirm if this is so and if not, state what steps are being taken to prevent any further occurrence of same in the future?

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, in checking with the Chief Medical Officer Dr. Roshan Parasram, the Principal Medical Officer of Institutions Dr. Maryam Richards and Port Health, they have had absolutely no evidence or reports that can be confirmed that this is in fact true. So I rely on the expertise of the Chief Medical Officer Dr. Roshan Parasram, Principal Medical Officer of Institutions Dr. Maryam Richards and officials at Port Health that there is absolutely no evidence to date, that this is in fact true.

Madam Speaker: Supplemental, Member for Pointe-a-Pierre.

Mr. Lee: Thank you, Madam Speaker. Minister, I take your answer as given and truthful but are there steps going to be put in place to prevent it from occurring based on what was reported in the media?

Madam Speaker: Well, I am not going to allow that as a supplemental question. The response was that that is not so. Okay? You have another supplemental question?

Mr. Lee: No.

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you. Minister, in relation to an article in the *Guardian* today: “Immigration officers deny Valentine’s Day party triggered COVID outbreak:”—but—“Blames fake PCR test...”, could the Minister undertake to have some type of consultation with the Immigration Division whose officers are now claiming that there is indeed this problem of fake PCR tests from foreign nurses, given that they have made a statement in the public domain—

Madam Speaker: Member, remember it is a question and you only have 15 seconds to ask it.

Dr. Moonilal: Sure.

Hon. T. Deyalsingh: Member, please repeat the question succinctly please.

Dr. Moonilal: Okay. Minister, in relation to an article in the *Guardian* today, could your Ministry undertake to consult with Immigration Officers who are claiming in public that the outbreak of COVID among the Immigration Officers is to be blamed on fake PCR tests from foreign nurses. You understand that?

Madam Speaker: Member.

Dr. Moonilal: Okay. Sure. Just want to help.

Madam Speaker: Okay. Again, let us just remember the sort of atmosphere we are trying to develop in here. Minister of Health.

Hon. T. Deyalsingh: I will respond without the rancour in the way the question was asked. I will repeat. I will repeat. There is no evidence coming from the Chief Medical Officer Dr. Maryam Richards and Port Health about fake PCR tests. And if you look at the way the question is posed, “allegedly”. If anyone has evidence that we have fake PCR tests, I urge the Opposition to share it with us so that in the interest of protecting all of us we could work together instead of relying—

[*Interruption*] That is not a test report. If you have evidence of a fake test report from a lab abroad, please bring it to our attention and we will investigate it. Thank you very much. [*Desk thumping*]

**Yellow Fever Vaccination of Population
(Steps Taken)**

Mr. Saddam Hosein (*Barataria/San Juan*): Thank you very much, Madam Speaker. To the Minister of Health: In light of the recent discovery of yellow fever in red howler monkeys in Trinidad, could the Minister state what urgent steps are being taken to vaccinate the population to reach the 95 per cent requirement recommended by the WHO?

Madam Speaker: Minister of Health.

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, the Ministry of Health and the Minister of Health moved very proactively since May 2020. [*Desk thumping*] Since May 2020, I personally at the Ministry of Health's press conferences have been begging and asking parents, knowing that schools were closed, to bring in their children for vaccinations. We started that in May 2020. The CMO has been meeting with his County Medical Officers of Health to ramp this up.

We have reports that St. George West, we have 422 children to target mainly under twos, the over twos are okay. It is the under twos we are concerned about. So St. George West, we have targeted 422 children; St. George Central, 364; county Caroni, 448; and Tobago, 91, to give you a total 1,325. These are the four areas of concern to us: St. George West, St. George Central, county Caroni and Tobago, so it is not a national event.

In addition to that we have done thermal fogging, perifocal work and local public service announcements in the areas of Biche, Rio Claro and so on. So again, since May 2020, we have been urging parents, do not let COVID be an excuse for

not bringing your children in for their annual vaccination. And we continue to urge parents, come in and get the yellow fever vaccination, it is free of charge.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Mr. Hosein: Thank you very much, Madam Speaker. Minister, in light of the targets, the target amount that you outlined based on the various regions, do you have an estimated timeline when we expect to get to the WHO standard of 95 per cent of persons vaccinated?

Madam Speaker: Minister of Health.

Hon. T. Deyalsingh: Thank you. The timeline is going to depend on parents. We are talking to parents, we are phoning them, actually phoning individual parents and we have started that about three weeks now. Parents have to make the final step to bring their children in for vaccination and we continue to do this on a local level of the four areas identified, let me repeat them for members of the public. If you live in St. George West, if you live in St. George Central, if you live in county Caroni, and Tobago. What you can also do is to avoid forested areas, avoid forested areas, and we have told the susceptible groups like hunters, hikers, make sure you are vaccinated. One yellow fever vaccine shot lasts you for your lifetime. Thank you very much, Madam Speaker.

Madam Speaker: Supplemental, Member for Barataria/San Juan.

Mr. Hosein: Yes, please, Madam Speaker. Minister, also in light of the virus being transmitted through the *Aedes aegypti* mosquitoes, can you indicate whether or not there has been increased fogging in various areas to prevent the spread of persons being affected by this mosquito?

Madam Speaker: Minister of Health.

Hon. T. Deyalsingh: Thank you. And again, in my original reply I did say we have stepped up perifocal work, we have stepped up spraying, we have stepped up

fogging. So the answer to that is yes. But since becoming Minister I have been telling this country, you cannot spray for the *Aedes aegypti* more than once every four months because if you do that, the mosquitoes build up resistance to the chemicals.

The public can help us, Madam Speaker, by getting rid of your plant pots, especially those that collect water, your vases, clean your guttering, your water tanks, any water receptacle in and around your yard. The public has a role to play in addition to spraying. But as I said, spraying is not the be all and end all because if you spray more than once every four months, the mosquitoes will build up resistance and you create a bigger problem, but I thank you for the question. Thank you, Madam Speaker,

1.45 p.m.

STATEMENTS BY MINISTERS

Annual Report of the Financial Intelligence Unit of Trinidad and Tobago

The Minister of Finance (Hon. Colm Imbert): Thank you very much, Madam Speaker. I have been authorized by the Cabinet to make the following statement. First, I would like to thank you for the opportunity to deliver this statement on the Annual Report of the Financial Intelligence Unit of Trinidad and Tobago for the year ended September 30, 2020. In accordance with section 18 of the Financial Intelligence Unit of Trinidad and Tobago Act, Chap. 72:01, the Director of the Financial Intelligence Unit submitted to the Minister of Finance its annual report for the year ended September 30, 2020, to be laid in Parliament. Today, I would like to outline to this honourable House some of the main highlights of this report. In the area of combating money laundering and the financing of terrorism, the following legislative actions were undertaken:

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- In May 2020, the Financial Intelligence Unit Act, Chap. 72:01 was amended by the Miscellaneous Amendments Act, No. 10 of 2020, to strengthen and improve the operations of the Financial Intelligence Unit.
- Secondly, the Proceeds of Crime Act, Chap. 11:27 was amended by the Miscellaneous Provisions (Proceeds of Crime and Central Bank) Act, 2019, and the Proceeds of Crime (Large Transactions) Order, 2019, also came into effect.
- Additionally, the Financial Obligations Regulations, 2010, was amended by Legal Notice No. 386, the Financial Obligations (Amdt.) Regulations, 2019.

Furthermore, in June 2020, the Real Estate Act, 2020, Act No. 12 of 2020, was enacted and will, among other things, assist in the detection and prevention of money laundering and terrorist financing through the registration and regulation of real estate agents. Moreover, a major development for Trinidad and Tobago's financial sector was achieved in July 2020 with the introduction of the E-money Issuer Order, 2020. In accordance with the order, entities such as payment service providers and e-money issuers that engage in any of these activities must be licensed by the Central Bank of Trinidad and Tobago and registered with the Financial Intelligence Unit as a money or value transfer service business. Other legislative actions were taken to bolster the Anti-Money Laundering, Counter Financing of Terrorism, Counter Proliferation Financing, also known as AML, CFT, CPF regime including the assent of the Miscellaneous Provisions (Registrar General, Registration of Deeds, Conveyancing and Law of Property, Real Property, Stamp Duty and Registration of Title to Land) Act, Act No. 17 of 2020.

Madam Speaker, in the area of fostering a culture of compliance, during

October 2019 to September 30, 2020, the Financial Intelligence Unit adjusted its supervisory activities due to the challenges of COVID-19. The national effort to reduce the potential impact of the pandemic led to a temporary closure of businesses in high risk sectors such as private members clubs, motor vehicle sales and real estate, supervisory and real estate. Supervisory and monitoring activities continued with the necessary adjustments, notwithstanding the challenges faced as a result of the global pandemic. The Financial Intelligence Unit observed general compliance by individuals, businesses and organizations required to register, thereby bringing them under Financial Intelligence Unit supervision. For this reporting period, 329 entities registered with the FIU, bringing the total number of registrants with the FIU to 3,337 as at the 30th of September, 2020. This represented a 10 per cent increase over the previous reporting period.

In terms of terrorist property reports, the FIU observed a continued improvement in compliance by reporting entities with their adoption of sanctions screening of their client database. This can be attributed to increased awareness and supervision efforts by the supervisory authorities. Also, with regard to independent testing, tests were conducted by competent professionals to assess the adequacy of the AML, CFT, CPF policies and procedures implemented by supervised entities. Though this is a legal obligation, it is also a compliance tool beneficial to both the entity and the FIU.

Madam Speaker, in the area of financial intelligence, during the reporting period and for the first time, the FIU received a total of 1,831 suspicious transaction reports or suspicious activity reports, the most it has received in its 10 years of existence. This represented an 80 per cent increase from the previous reporting period; the previous year. Also, during the reporting period, the FIU noted a 141 per cent increase in suspicious transaction reports or suspicious

activity reports submissions from financial institutions, and an 80 per cent increase in the submissions from listed businesses, in comparison to the previous year.

The total monetary value of the 1,831 suspicious transaction reports/suspicious activity reports received in the reporting period amounted to approximately \$27 billion. Of the 1,831 suspicious transaction reports or suspicious activity reports, 1,517 were completed transactions, while 314 were attempted transactions. The number of suspicious transactions stopped by reporting entities rose to 314 in 2020, from 86 in 2019. There was also a substantial increase in the monetary value of the attempted suspicious transactions when compared with 2019. Suspected tax evasion ranked the highest among the five most common reasons for the submission of suspicious transaction reports or suspicious activity reports. In this reporting period, the most common suspected criminal conduct included tax evasion, 539; money laundering, 530; suspicious financial activity, 401; fraud, 205; and drug trafficking, 92. These five suspected criminal conduct accounted for 97 per cent of the total number of suspicious transactions or suspicious activity reports submitted, and 99.89 per cent of the total monetary value of all reports. With regard to the financing of terrorism, the FIU received 12 suspicious transaction reports or suspicious activity reports on suspected financing of terrorism compared to 97 in the previous period. This represented an 88 per cent decrease and may be attributable to the apparent collapse of the Islamic State of Iraq and Syria.

Madam Speaker, the demonetization exercise of the old cotton-based 100-dollar currency notes resulted in a significant increase in the submissions of suspicious transaction reports/suspicious activity reports by reporting entities, with 750 received. That is with respect to the demonetization. In the area of strategic alliances, co-operation and collaboration, the FIU received 184 requests on 598

subjects from law enforcement authorities, compared to the 221 received on 636 subjects during 2019, representing a 17 per cent decrease. Cash seizures related to money laundering, which totalled 61, was the highest suspected criminal conduct of the requests received, representing one-third of the requests. This was a 135 per cent increase from the previous period. In the area of resources and infrastructure, in November 2019, the FIU staff increased by 22 per cent, from 49 to 60 positions, following Cabinet's approval of 10 additional compliance and outreach professionals and one administrative support staff in the Compliance and Outreach Division. During the period, the Information and Technology Division upgraded its FIU connect secure online reporting solution as well as its security environment to protect its Web server and network.

Finally, Madam Speaker, in terms of its strategic priorities for 2021, the FIU anticipates the introduction of legislative amendments to the Gambling (Gaming and Betting) Control Bill, 2020, extending the range of sanctions to include administrative fines in the AML, CFT, CPF regime, amendments to the Financial Intelligence Unit of Trinidad and Tobago Regulations; and the regulation, supervision and monitoring of fintechs, including virtual assets and virtual asset service providers for AML, CFT and CPF. I thank you, Madam Speaker. [*Desk thumping*]

Future Operations of the Water and Sewerage Authority

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Madam Speaker. Madam Speaker, I have been authorized by the Cabinet to make the following statement with respect to the operations of the Water and Sewerage Authority of Trinidad and Tobago.

The Water and Sewerage Authority is the statutory agency of the State with responsibility for the provision of water and waste-water services to the citizens of

Trinidad and Tobago. The Authority is still governed by the Water and Sewerage Authority Act. During the period 2010 to 2020, over \$25 billion of state financial resources, comprising of subvention, \$21.6 billion, and PSIP projects to the tune of \$3.65 billion were transferred to the Authority. Yet the quality of service delivered to the majority of the population remains largely unacceptable. The unfortunate reality is that for quite some time, despite the Authority's best effort, it has been unable to deliver on its mandate to provide the population with an adequate and reliable supply of potable water. Currently, only an estimated 34 per cent of the population is in receipt of a 24/7 supply of pipe-borne water in the dry season, with some communities not receiving water for weeks, and in some cases months or even years. On a given day, there are numerous complaints about lack of water from residents in communities throughout the country. Published schedules are routinely discarded without prior notice, mainly because of system failures, and generally with no apology from the Authority. Leak repair is reactive, and like road restoration works, is subjected to inordinate delays. The Authority's customer service, especially to distressed customers, is a cause for serious concern and frequent aggravation.

Madam Speaker, prudent and efficient governance demands that this state of affairs be arrested and remedied with alacrity and a sense of purpose. Even more critical, is the fact that WASA's demonstrated inefficiencies and un-responsiveness have become increasingly intolerable to the national population, and have been the target of much national disdain and derision. Some people even believe that it cannot be improved nor can it ever be fixed. In response to this unacceptable state of affairs, at the very first Cabinet meeting of his new administration on August the 27th, 2020, the hon. Prime Minister established a special Cabinet sub-committee, which I had the honour to chair, with the mandate to review the operations of the

Water and Sewerage Authority and to determine a strategy for enabling the Authority to achieve its mandate. The other members of the sub-committee were as follows:

- The Hon. Stuart Young, Minister of National Security and Minister in the Office of the Prime Minister;
- The Hon. Camille Robinson-Regis, Minister of Planning and Development;
- The Hon. Pennelope Beckles-Robinson, Minister of Housing and Urban Development;
- Sen. The Hon. Franklin Khan, Minister of Energy and Energy Industries; and
- Sen. the Hon. Donna Cox, Minister of Social Development and Family Services.

In light of the critical nature of the undertaking, the sub-committee was mandated to report back to the Cabinet in three months with its findings and recommendations. The sub-committee examined the prevailing circumstances within the water sector locally, regionally and internationally, and had valuable engagements with key stakeholders in the water sector. Based on the careful deliberations of all the submissions, written and oral, an intense review of its current state of affairs, analysis of previous studies and reports, international best practices, and thoughtful deliberations on the most feasible way forward, the sub-committee has come to the inescapable conclusion that WASA is dysfunctional in terms of its corporate performance, its organizational design, its technical operations, financial management, corporate governance, and collective bargaining arrangements that are inimical to high levels of productivity and have

compromised management's ability to effectively manage the Authority and discharge its fiduciary responsibilities.

The dysfunctionality inherent in the organization is manifested in, inter alia, rampant corruption, a multiplicity of illegal connections, refusal to take disciplinary action against personnel identified in audit findings, conflicts of interest with companies providing goods and services tied to the unions representing workers, a general lack of accountability, incompetence, lack of strategically focused capital investments, the absence of the use of technology and systems to optimize the network's performance, and the emasculation of in-house capacity to discharge its core functions with an attendant over-reliance on private contractors, leading to mounting debts that have crippled the Authority financially.

Madam Speaker, the country will recall that in 1999, a decision was taken to enter into a desalination contract to supply water to industries in Point Lisas. The country was told that WASA would benefit from this arrangement by the pricing arrangements that the water will not be used on the domestic grid for citizens since it was always priced substantially higher than the cost of production at WASA. This is one of the haunting decisions that crippled the Authority with over 20 million of this water now going into the domestic grid and tariffs remaining at 1995 levels. In 2012, the Government of the day further exacerbated this chronic situation and extended this unsustainable arrangement to 2036 at a monthly cost of approximately \$50 million to be paid in US currency. Today, outstanding payables amount to \$1.59 billion of which some \$700 million is owed to contractors and suppliers. Cabinet after careful deliberation of the sub-committee agreed to the overall restructuring of the Water and Sewerage Authority that in accordance with section 17(3) of the Water and Sewerage Act, Dr. Lennox Sealy, the current chairman of the Board of Commissioners be appointed as an Executive Director,

and that a Deputy Executive Director be also appointed. That a special sub-committee be appointed and chaired by the hon. Minister of Housing and Urban Development, Mrs. Pennelope Beckles-Robinson, for the purpose of providing strategic ministerial oversight to the Board of Commissioners in the implementation of the recommendations of the sub-committee's report and the restructuring of the water and sewerage authority.

Madam Speaker, Dr. Sealey has extensive experience in transformation and organizational change, both in the public and private sectors, locally and regionally, and has been entrusted with the urgent responsibility to drive the transformation process of this very critical state agency. Madam Speaker, the fundamental imperative confronting the Government in the transformation of the Water and Sewerage Authority is to provide a consistent and reliable water supply and waste-water services to the population, and this can no longer be delayed. The question was asked by one of our cynical colleagues on the other side, as to what is the end game? Madam Speaker, this is the end game. To provide the population with consistent and reliable supply of affordable water services. [*Desk thumping*]

In moving forward, all stakeholders and all citizens have a responsibility and an interest in assisting the transformation of WASA. It cannot be business as usual. Citizens too have long endured a poor and inadequate water supply. As a water-rich country, we can and must do better. The transformation is not only restricted to the Water and Sewerage Authority, but in light of the negative impact of global warming and changing climatic conditions, it must and it will involve transformation of the water sector in Trinidad and Tobago. In this regard, the Ministry of Public Utilities will submit for Cabinet's consideration, a blueprint for an Integrated Water Management Programme for the long-term sustainability of the citizens of Trinidad and Tobago. In the meantime, Madam Speaker, we lay this

unbiased but troubling report for the reading of the affected and long-suffering national community, most of us victims of this dysfunctional system. It is our expectation that a parliamentary committee will delve deeper than the Cabinet committee which produced this report, and will also keep an eye on the genuine efforts which we are now embarked upon. Today, I lay this report and ask for it to be sent for further examination by a joint select committee of the Parliament.

Madam Speaker, I thank you. [*Desk thumping*]

Madam Speaker: Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Speaker. Madam Speaker, 24(4), one question to the hon. Minister. Minister, in advancing the content, some of the contents of the report, the preferred option of a corporatized model for WASA, does the Cabinet and the Government envisage a termination of the employment of all 5,000 employees of WASA subject to the rehiring and selection of a small few of that number?

Hon. M. Gonzales: Madam Speaker, I think it is public information that three models were put forward by the Cabinet sub-committee, and the Cabinet sub-committee has taken a decision to appoint a strategic team of managers to drive the transformation of the Water and Sewerage Authority, and therefore I cannot delve further into the question that I am being asked by the hon. Member. [*Desk thumping*]

MUTUAL ASSISTANCE IN CRIMINAL MATTERS (AMDT.) BILL, 2021

Bill to amend the Mutual Assistance in Criminal Matters Act, Chap.11:24 [*The Attorney General*]; read the first time.

CARIFORUM STATES (THE CARIBBEAN COMMUNITY AND DOMINICAN REPUBLIC) AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ECONOMIC PARTNERSHIP AGREEMENT BILL, 2021

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Bill to give effect to the Economic Partnership Agreement between CARIFORUM States (the Caribbean Community and the Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland; to effect consequential amendments to the Customs Act, Chap. 78:01 and for related matters [*The Minister of Trade and Industry*]; read the first time.

**MISCELLANEOUS PROVISIONS
(SPECIAL RESERVE POLICE AND POLICE COMPLAINTS
AUTHORITY) BILL, 2020**

Order for second reading read.

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi):

Thank you, Madam Speaker. Madam Speaker, I beg to move:

That a Bill to amend the Special Reserve Police Act, Chap. 15:03 and the Police Complaints Authority Act, Chap. 15:05 to strengthen the operations of the Police Complaints Authority and its relationship with the Special Reserve Police and matters related thereto, be now read a second time.

Madam Speaker, if I may begin by placing this Bill before us in the context of Trinidad and Tobago. The Bill before us seeks to amend two laws, the Special Reserve Police Act, 15:03 and the Police Complaints Authority Act, Chap. 15:05. It is three clauses long, including the short title. We do propose some small amendments, which will come during the course of the debate. But these laws are being considered in the context of Trinidad and Tobago discussing the issue of crime. Crime affects us all. It is visceral. It is real. One can even say it is almost perennial. It has been around since the dawn of time, and since human interaction happened long before societies formalized themselves. As a country we have been wrestling with how to be ahead of the scourge that crime is. Decades in Trinidad and Tobago have been spent in the Parliament and on the road and on the field, and

in the areas of concern, seeking to better our country. Whilst we aggressively amend laws, whilst we have aggressively pushed for reforms in the criminal justice system, whilst we as a society seek to use the better use of technology to come to a different place, a safer environment, whilst we are enabling the members of law enforcement, and in this instance, the police, as I will later define, to have that right and power, that awesome power that they exercise, at the same point in time there must be oversight, accountability and proportionality. And that is where the Police Complaints Authority is born, Madam Speaker.

Madam Speaker, we know that the Police Complaints Authority, which is an Act of Parliament, standing No. 17 of 1993—sorry, of 2006, Chap. 15:01, was preceded by an earlier piece of law. That was the Police Complaints Authority, No. 17 of 1993. In 1993, the model for inspection, for balance, for supervision of the power exercised by the police was in fact a model which was quite flawed. It involved what we call the internal affairs approach. It was police investigating police. And more than that, that particular piece of law also saw the police investigating in circumstances only where they received complaints, where they monitor investigations that are under the rubric of complaints, and where they report to the Minister of National Security, either of their own volition or at his request. And lastly where they had the review of the complaints division itself. In 2006, by Act of Parliament, No. 8, we took a radical step towards an independent civil oversight authority, now comprised as the Police Complaints Authority. And that complete maneuverer away from police on police, took as a core element the concept of independence, together with reporting and oversight associated to, in the first instance very materially, the Director of Public Prosecutions, and in the second instance, to the elements that managed the police. As we know the Constitution separates the First Division and Second Division aspects. The

Commissioner of Police has responsibility for dealing with disciplinary matters and certain matters. But the Service Commission has responsibility equally under the Constitution to manage the more senior ranks, including the Commissioner of Police.

That is where we get into the PCA Act itself, and the PCA Act itself is critical for us when we look at the fact that it is a body corporate, when we look to the fact that it has independent power, when we look to the fact that it has awesome powers of summons, of production, of enquiry, of acting in respect of any public office of its own volition, without warrant. It only needs warrant in the case of a private enterprise, or private dwelling. But the Police Complaints Authority as an Authority established pursuant to section 5, as an Authority under section 6, really takes the positions of who it can supervise. When we look to the parent Act which we seek to amend in this Bill, we look to section 4, we look at the fact that a:

“‘complaint’ includes an allegation of—

- (a) police corruption;
- (b) serious police misconduct;
- (c) the commission of a criminal offence by a police officer; or
- (d) the commission of a criminal offence by any other person but involving a police officer...”

“Police corruption” is defined. It means:

“...an act done with an intent that is illegal, dishonest or fraudulent or failing to act in order to receive an advantage or reward whether financial or otherwise, personally...”—et cetera.

We then get to “police officer”, and:

“‘police officer’”—is defined—“means—

- (a) a member of the Police Service;
- (b) a member of the Municipal Police Force,”—service—“...under the Municipal Corporations Act, and
- (c) a member of the Special Reserve Police, established under the Special Reserve Police Act.”

Very importantly, “serious police misconduct” is also defined.

So let us look statistically at what this PCA has to do. Madam Speaker, I can tell you, in Trinidad and Tobago today, there are 6,983 regular police under the Police Service Act. Of the SRPs, being both part-time and full-time, there are 4,376 SRPs in total, and of the municipal police, the sanctioned strength that they are aiming at is 1,500, but at present we have 854.

2.15 p.m.

So, in Trinidad and Tobago actively on duty, including part-time SRPs, we have a grand total at present of 12,213 persons. Now, this is important in the context of the work of the PCA because the Bill before us seeks, Madam Speaker, to, in terms of the objectives, broaden the oversight to capture the municipal police because of the introduction of their regulations in 2014. We seek to fix the oversight intended for SRPs which is a lacuna existing in default of their regulations having been proclaimed or managed or even put into effect. We also, thirdly, seek to fix the Constitution, the Authority itself. How it is composed, where we have one person in the office as opposed to two, meaning director and deputy director together constituting the Authority. Fourthly, we seek to fix certain issues that came about as a result of poor drafting and, of course, we want to also fix lastly and fifthly, the method by which reports are conveyed back to the PCA from the authorities in the police service and municipal police, et cetera.

Madam Speaker, when we look at the particular provisions we therefore

propose amendments in this Bill to the parent Act. We are proposing to amend section 4, section 21 and we are seeking to introduce a new section 44A. We are proposing to amend section 48 of the Act and, of course, we propose the introduction when we get to the Authority's composition of a new section 13A.

It is interesting to note, Madam Speaker, that we must look at what the PCA has done, where it is accomplished, what has happened. Whilst Trinidad and Tobago is very pleased with the uptick in policing, with the lowest number of criminal matters in 20 years as produced by the statistics coming from the Commissioner of Police, Commissioner Griffith; whilst it is an 80 per cent approval rating for the Commissioner of Police himself, record breaking items, markers, the truth is our country is properly dissatisfied and there is genuine concern that there can be police killings, police shootings or that people die in police custody.

Now, whilst that death in police custody in a serious allegation matter that may satiate some desires, it is something to be equally concerned about. And therefore this law, this Parliament is being invited to ensure that we achieve a balance, a proportionality that we must. When we look at the PCA's performance and we analyze where they stand in today's world, the PCA in terms of statistics has done very well. If we look at their 10-year workload, between 2010—2020, we have had—2011 straight to 2020, taking those years and I go through the years, '11, '12 straight up to '19, '20; 340 for that year 2011/2012; 470; 491; 321; 320; 284; 420; 412; 396, the number of matters that have come before us.

When we looked to the number of matters in the period 2014 to 2020, the number of matters sent to the DPP for fatal shootings is 36; the number of referrals sent to the Commissioner of Police is 306. When we looked to the number of complaints received in the period December 2010 to September 2020, number of

complaints are 3,876; number of investigations completed, 3,259; number of matters sent to the DPP, 97; number awaiting Forensic Sciences Centre, 42; number of investigations where police were justified in their actions, 82; number of investigators, 24; number of legal counsel, 10.

When we get to the Police Complaints Authority annual report which has been laid in this Parliament, and I recommend that everybody has a view of that, we can see that there are some interesting statistics that we have to pay attention to. At present the complete—the PCA receives the vast number of its self-acting matters from the newspapers as opposed to reports coming from the police. Right now we see that 76 per cent of that comes from newspapers. When we looked at the ethnicity breakdown and gender breakdown we also have some serious consequences there, because what we are noticing in the ethnicity and gender category is that 124 are in the African decent; 56 in East Indian; 38 mixed; 2 Hispanic; 179 unknown. When we looked to the gender we noticed that the dominance in the male category is there.

So, Madam Speaker, these are the statistics and this is the data coming forward. Our society is saying that the number of 13,000-odd people comprising of police, SRPs and municipal police, that we are seeing thousands of matters reported. The PCA is doing well enough but can it do better, is the issue.

So let us get to the Bill itself and what we propose here, Madam Speaker, is a structure which allows us—Madam Speaker, may I ask what time is full time?

Madam Speaker: You will end, Attorney General, at 2.37:55 p.m.

Hon. F. Al-Rawi: Thank you very much. Madam Speaker, if I say that Trinidad and Tobago needs balance and concern, then the balance and concern is addressed in this Bill. This Bill is a continuation of two very powerful pieces of law that we brought in December. Madam Speaker, I refer you to Act No. 25 of 2020 which

was assented to on the 18th of December, 2020, and Act No. 29 of 2020 which was assented to on the 23rd of December, 2020.

In the first piece of law which this Bill is tagged on to that is where we saw the birth of the Miscellaneous Provisions (FATF Compliance) Act, 2020, and very importantly it is where we allowed the PCA the introduction to the exception for secrecy in the Income Tax Act; Financial Institutions Act; Securities Act. When we dealt with the structures that come out of Proceeds of Crime, when we dealt, Madam Speaker, with the other aspects in the Financial Intelligence Unit Act; when we dealt with the other aspects as we broadened the investigative powers for financial crimes in this legislation it is important to remember that following the money is a critical aspect for the PCA. Similarly, Act No. 29 of 2020 we bore into this particular position the ability of the PCA to be told that a matter of an unusual or an unlawful death that is under investigation, under the Coroners Act is going on and then the right of participation.

So this Bill before us right now seeks to address the five critical areas that I have set out and let us deal first of all with the issue of the SRP. Madam Speaker, as you see in clause 2 we treat with the amendments to the Special Reserve Police Act. We seek an amendment after section 22 to get a new section 23. We are proposing that the Police Service Regulations apply to the SRPs and giving notice that we intend to refine this section by way of amendment to make it more targeted. But let us address the mischief.

The fact is that the original Act, the PCA Act, includes the SRPs in its body. The SRPs were specifically intended to be subjected to sections 21 and 22 of the Act, that is, the powers and functions. The SRPs, unfortunately, have been left out of investigation for serious misconduct. They have been investigated for criminal offences or police corruption, but because serious misconduct must be associated

with having regulations, serious police misconduct—[*Interruption*]

Mr. Hosein: The municipal police?

Hon. F. Al-Rawi: No, I am talking about the SRPs. That is also from the municipal police. For the SRPs the lacuna in the law is that we can only get two out of the three. We can get criminal offences, police corruption. We could not get the serious misconduct because, Madam Speaker, serious police misconduct is defined as the commission of a disciplinary offence under Police Service Regulations.

We do not have the regulations for the SRPs and therefore they fell out of the structure and therefore the PCA has been outside of the ability to investigate the SRPs for serious police misconduct. Therefore, Madam Speaker, we seek to amend the lacuna in the law by adding in the applicability of certain aspects of Police Service Regulations, two SRPs so we can catch that third limb.

The municipal police, we are in a similar situation. For a long time the municipal police were managed in that third category of serious police misconduct by the fact that the Police Service Regulations applied to them, a term of law, *mutatis mutandis*, meaning equally as if they were regular police. But in 2014 the Municipal Police Regulations were born and in 2014 there was a mistake that was not picked up. You see, Madam Speaker, only the Commissioner of Police has the power to deal with the lower ranks for the police. The SRPs have the loophole, the municipal police fell into problems with the 2014 regulations because the person to exercise the control over them is the Assistant Commissioner of Police who heads the municipal police service.

Therefore, we need to amend the law now to treat with two categories of persons that have responsibility for reporting serious police misconduct or other matters or acting upon that which the PCA sends. In the law we have the

Commissioner of Police but we must now introduce the Assistant Commissioner of Police who has responsibility for the municipal police.

Madam Speaker, it is important to note that there was no obligation upon the Commissioner of Police to act with a constancy of reporting or forms and time lines. And therefore we propose the introduction of the new section that we are proposing. We propose the introduction of a mandatory obligation on the part of the Commissioner of Police and the Assistant Commissioner of Police from municipal police by introducing a new section 44A, so that within three months of the Authority making a recommendation, in accordance with the Act a written decision with reasons on any action which has been taken or is proposed to be taken in respect of a recommendation or a written update is provided. And that is because there must be the rapport and accountability that the PCA gives, otherwise it will continue in the vacuum of not being able to report upon the many statistical bits that I have already put onto the record. Because people are asking what is happening.

Madam Speaker, it is at this point that I will jump to the other aspect, just a minor position of clean up in terms of legislation. We are removing the reference to police force, we are putting in police service. That takes care of the amendments to the Police Complaints Authority as to its ability to perform its functions in light of its powers in the context of sections 20 and 21 of—21 and 22 of the Police Complaints Authority Act. But very importantly there is a huge problem that has happened on several occasions in the life of the PCA, and that is, Madam Speaker, the issue of its functionality.

You see, Madam Speaker, the Police Complaints Authority is set up under law. The Police Complaints Authority when we look to the fact that it is a body corporate under the provisions of section 5 of the Act. The membership of the

Authority is set up at section 6:

“The Authority shall comprise a Director and a Deputy Director...”

What happened three times in its history, is that the Deputy Director left the job. And therefore, the ability of the Authority to continue fell into difficulty. Now, it is true that you could have a look at the Interpretation Act. Section 36 of the Interpretation Act sets out that unless a law says to the contrary a vacancy does not affect validity. But unfortunately section 2 of the Interpretation Act says that if a law specifically says otherwise you cannot take avail of section 36 of the Interpretation Act. And because the Police Complaints Authority in section 6 sets out the fact that you must have a director and a deputy director, you are falling now to the law of the doctrine of necessity. And the doctrine of necessity saved the Police Complaints Authority on three occasions. That is unacceptable in light of the lacuna observed and therefore we propose today, Madam Speaker, the introduction of an amendment to the law by inserting a new section 13A as we proposed in clause 3 of the Bill.

In section 13A we are saying:

“Where the Director or Deputy Director dies, resigns, is removed...”—et cetera—“or otherwise vacates his office...the Authority is deemed to be properly constituted with the remaining members for a period not exceeding three months...”

Why three months? Because when you get back to section 6 the method of appointing a director or a deputy director is with the joint agreement of the Leader of the Opposition and the Prime Minister with Her Excellency, the President or in default of that after consultation where Her Excellency, the President would proceed in accordance with the Constitution to make the recommendation.

So, Madam Speaker, in summary we are proposing amendments to the

special reserve police legislation, amendments to the Police Complaints Act. We are seeking to take avail of the interoperability of laws. We obviously have the Police Service Act, Chap.15:01; we then have the Municipal Corporations Act, Chap. 25:04; we have the Municipal Police Service Regulations, 2014, and Madam Speaker, we have the supplemental police in operation, Special Reserve Police—forgive me—Act, Chap.15:03. What we need to do is to ensure the continuation of the law as originally drafted.

In 2006 we said, create an independent authority. Give it significant powers of investigation, compulsion, give it the powers of search, of seizure, in public areas, with a warrant in private areas. Let there be serious consequences for the defined terms that we have in the Act of misconduct and serious police misconduct, police corruption, commission of serious matters, of criminal offences. And in the independence of this body we are ensuring, first of all, that the Authority can function, that is, the 13A amendment. Allow it to continue as a deeming factor where you only got one person for a three-month period.

Allow it, Madam Speaker, to continue to expand its breath, fix the reference to the municipal police by inserting the Assistant Commissioner of Police that has supervision over the municipal police, fix the SRP lacuna, where serious police misconduct could not be managed because of the lack of regulations for the SRPs. In the municipal police, fix the issue of the reporting line of items and with respect to all of the police, SRPs, regular police, municipal police, allow for there to be a feedback mechanism statutorily directing the Commissioner of Police or the assistant Commissioner of Police to report within three months as the new section 44A suggests.

Madam Speaker, this law is critical. There was a joint select committee in 2014, which I sat on, which produced a report. There were recommendations lying

in wait. Obviously you have seen that we have taken by Act No. 29 of 2020 and Act No. 25 of 2020, significant improvements to the PCA's power to deal with follow the money, white collar criminal offences in the TTPS. The issue of people dying via police shootings or in police custody is a serious issue. There must be transparency, we must have a cleansing light to manage these issues. We must, whilst we push back against crime and criminality, preserve the balance and proportionality of that cleansing, safe view of an independent authority exercising its functions. Madam Speaker, I can say this with confidence, the exercise of drafting the full regulations for the SRPs is on the way. We will have that completed shortly. We must make sure that we have these issues mapped out as we pick up each and every item of the system.

I welcome, Madam Speaker, as I come to conclusion, the public's new-found advocacy. I want to compliment all stakeholders in this country that have now stopped for a moment to focus on issues. I note that today there is intended to be a continuation of certain of those items. I note that the action items on that agenda are matters that the Government already has in gear, managing our roads and safety and number plates, managing non-lethal defence mechanisms, managing improvements to sexual offences laws, managing sexual harassment, managing witness protection. All of these are large items that we have firmly in tow because we have done a lot of work on it already. Madam Speaker, we intend that the Attorney General's Office will issue a number of Bills out for public consultation and then also to bring certain Bills to the Parliament which will complement the work we are doing today. I look forward to contributions from my learned colleagues and I beg to move. [*Desk thumping*]

Question proposed.

Mr. Rodney Charles (*Naparima*): Thank you, Madam Speaker. Madam Speaker,

in my preparation for this debate I went through a number of PCA annual reports from the past few years. [*Crosstalk*] You see, Madam Speaker—the mike?

Madam Speaker, in my preparation for this debate I went through a number of PCA's, that is the Police Complaints Authority's annual reports for the past few years. You see, Madam Speaker, I wanted to get an idea of what the PCA has requested of this Government and see the extent to which those concerns that were raised have been addressed in this Bill. What I found was that there was an embarrassing level of not dealing with the issues that were raised by the PCA.

Madam Speaker, the majority of the amendments before us today are taken from the PCA's 2016 annual report where it proposed numerous legislative amendments needed for it to function effectively and efficiently. I refer to clause 2 of the Bill before us which provides that the:

“Regulations made under the Police Service Act are deemed to be applicable to any matter”—involving—“serious police misconduct by a member of the Special Reserve Police...”

Madam Speaker, that request was made in 2016 in the PCA's annual report. It is available, it is here, I have copies. It took five long years, five long years for those requests to be acted upon by this Government and the same occurs for clause 3(a) and for clause 3(b). Madam Speaker, and we keep saying that this is a manifestation of sloth. All these amendments do not change the fact that the PCA lacks the power to function effectively. The Attorney General himself was quoted in the *Express* on June 20, 2016, as saying that the PCA does not have the powers and the privileges and immunities to do what it should do, that is, that it has to work with its hands and feet tied and a gag in its mouth.

Madam Speaker, that is, I have the reference—the heading that says where the Attorney General makes the comment that the PCA is not given the tools to

function. The PCA Director, Mr. West in that same article stated that:

“...the most important amendment...”—needed—“was for the ability”—of the PCA—“to arrest and lay charges.”

Director West said and I quote:

“...after”—we go—“through the investigation and we have the evidence, many times when we give our file to the DPP he is busy and there is some delay. He has staff constraints, he has financial constraints and we want to be able to investigate the matter and lay charges ourselves.”

This is not Rodney Charles speaking, this is Director West speaking, Director of the PCA. And nothing we have before us today solves that fundamental problem of charges being laid and worse, convictions. [*Desk thumping*]

Where is that important amendment, Madam Speaker? These cases should not be left to linger simply because the DPP’s Office is overburdened and not given the necessary financial resources. If the Government cannot improve the situation at the overburdened DPP’s Office then give the PCA the powers to at least lay charges and may be then we will see results. Yes, you are including updates from the Commissioner of Police via reports in this Bill, that is in clause 3(f), but where is the equivalent for the DPP, and what constitutes a report? A statement saying, yes, we have it and we are investigating it, investigations are ongoing. That is not enough in a 21st Century environment.

“...the PCA has”—requested since 2018—“to receive feed-back on any of the recommendations it makes”—to the Commissioner of Police so that they can know their—“work is not in vain and we know whether the defaulter has been suspended, fired or brought back to duty.”

That is the PCA Director David West, *Express*, May 16, 2018.

You see, Madam Speaker, the PCA understands the need for transparency

and accountability. When you take pride in your job you want to know that your work is not in vain. You want to see what has come out of the hours, days and months of labour and it is not enough to send the results of your investigation to the Commissioner of Police and to the DPP and there rests the story, the end of the story. Madam Speaker, citizens—we are here to solve problems leading to arrest or exonerations so that the population could be satisfied. Nothing that is happening here today significantly deals with that fundamental concern [*Desk thumping*] of the population of Trinidad and Tobago.

Citizens are now doubting the PCA's capabilities to properly investigate officers because Government has failed to give the PCA the teeth it needs to hold errant police officers and SRPs accountable for their actions. *Express Opinion Poll* February 16, 2021. This is months ago.

“Do you think foreign investigators should be brought in to probe the deaths of two suspects in the kidnap-murder of Andrea Bharatt?

Margaret Bruno”—and I quote:

“Yes, it's too much underworld going on in this country, so much people getting killed and no answer after, we want to know who's guarding the guard.” A citizen.

“Pricella Rampersad”—quote:

“Yes. Too many unsolved murders in the country and the government cannot handle the job of solving crimes...”

So when I come here today and I see this Bill and I say, what is the end product of this? Is this going to lead to a situation where our police officers will be concerned, that if they run afoul of the regulations that they will be held to account? And secondly, is the population satisfied that something is being done? I leave, I leave at the end of today when we pass this Bill—we will support it, when

we leave, at the end of—I am not too sure that those concerns have been addressed.

Madam Speaker, even the hon. Prime Minister voiced his lack of confidence in the PCA because even he apparently did not understand that the PCA only has investigative powers. Their hands are tied past that.

2.45 p.m.

I am referring and I quote to the *Express* July 02, 2020, and it says:

“Rowley...”

I will say hon. Prime Minister, but the article says:

“Rowley: PCA not working”

And I quote the article:

“Prime Minister Dr Keith Rowley has said that the Police Complaints Authority’s...failure to delivery justice in matters relating to police involved killings has led to an absence of confidence in the institution.”

Yet we come today to give them disciplinary powers over what we are told, 4,100 SRPs. The Prime Minister, the Attorney General, David West, the population, everybody is saying they are not satisfied and we are giving them additional powers, overwhelming them.

Madam Speaker, an investigative body cannot deliver justice. Transparency will help this misconception and I make the point, transparency is needed concerning the end results. We come in this House month after month, day after day and hear about arrest. We do not hear about convictions and exonerations. We cannot, in this Parliament, accept processed arguments and not end result positions. Madam Speaker, a report from the Commissioner of Police under clause 3(f) of this Bill is not enough for transparency. It is not enough.

In Canada, Madam Speaker, in Ontario, Canada, there is the Special Investigations Unit—that is their equivalent of the PCA—and I want to show you

how First World countries operate, and how this Bill is not dealing the fundamental issues that are of concern to the citizenry of Trinidad and Tobago. In their PCA equivalent for criminal misconduct of officers, the SIU ensures that the public is up to date on the progress of SIU investigations, and as of 2018—and let me just say, there were fundamental issues in Canada with the SIU—that is their equivalent of the PCA—and those have been significantly addressed since 2018.

Madam Speaker, as of 2018, the unit proactively provides public updates of each and every investigation of police officers. Each and every. A simple research on the SIU website and can see the status of all cases. So I could tell you what I cannot tell you for—in Trinidad. I could stay in San Fernando and go on the net and I can tell you seven cases resulted in charges being laid against officers for 2020. Seven charges—charges. Not investigations completed and sent to the DPP, or sent to a Commissioner of Police. I can tell four were for injury of a suspect while in custody, one for firearm injury, and two for sexual allegations.

Madam Speaker, a press release by the SIU on one of the cases said the:

“SIU Lays Assault Charges Against Police Officer in Relation to Incident in Waterloo Detention Centre”—June 14, 2020.

Let me tell you, Madam Speaker, how First World countries operate.

“SIU Lays Charges Against...Officer in Relation to Incident in the Waterloo Detention Centre.”

It was reported on March 2020—reported—charge laid, June 2020. March, April, May, June—four months—report, charged laid.

“The Director of the Special Investigations Unit...Joseph Martino, has reasonable grounds to believe a Waterloo Regional Police Service...officer committed a criminal offence in relation to an interaction with a 44-year-old man in March...2020.”

And I am asking, the citizens are asking: What about all the reports that have been made in terms of shootings of citizens? I am not saying that the police are right and wrong. I am saying, let the facts be ventilated and let us know so that we can report, transparently, that the PCA is working.

Madam Speaker, it took three months—it is three months, I said four—for charges to be laid in Canada, and that is taken from, as I said, from the website. At the end of the process with the SIU, if no charges are laid, the SIU provides an explanation of what had happened to the affected person. And in Canada, Toronto, once the SIU has laid a charge against a police officer, the unit refers the matter to the justice prosecutions of Criminal Law Division at the Ministry of Attorney General which prosecutes the charge. The SIU is an investigative agency. It is not involved in the prosecution but it goes to the point where charges are laid.

We need that kind of efficiency in this country and I need to come—when we come to this Parliament, we must be dealing with Bills that deal—not a plaster on the sore, not an attempt to rectify a past lacuna—that is a word I learnt today—it must deal fundamentally with the issues of what is— is this going to bring satisfaction? [*Desk thumping*] Madam Speaker, I have friends who are SRPs and they tell me that they are treated like second-class citizens. The Minister of National Security reported to the Joint Select Committee—yes, he reported to the parliamentary Standing Finance Committee, the sitting where budget allocations for National Security are scrutinized. This is *Express*, October 2018. Madam Speaker, the *Express* says that officers are saying that:

“We are...treated like slaves”

And the question I want to ask, if we fundamentally want to deal with discipline, and to deal with performance, and deal with output of the SIP—sorry the SRPs, we have to deal with all the issues. [*Desk thumping*]

The article says—where they say—where the article says:

They—“...are...treated like slaves”.

They say:

SRPs—“...are calling on the...”—State—“to address the number of issues facing them including late payment of salaries.

‘For...too long the full time...’—SRP—“officers are being treated like outside children of the TT...”—PS.

I am saying the relevance to this is that we ought to be dealing wholesale, comprehensively, with the issues of the SRP. If you do not pay them salaries—and I will read a little bit where they complained—for months, what do you expect in terms of the—you know, people would be tempted to do things that they ought not to do.

I will continue:

“‘For...too long the full time...’—SRP—‘officers have been treated like outside children of the TT...’”—PS—“ ‘Enough is enough...’”—they are saying—“ ‘Full-timers are humiliated by the public’”—and I have heard them—“something resembling police”—they call them—“and most of all oppressed and ridiculed by...”—administrators—by their—“seniors and...regulars of the TTPS.’

...grievances include a lack of back pay owing since January, constant late payments of salaries, a slow and bureaucratic absorption into the police service and a lack of full...”—

Mr. Al-Rawi: Madam Speaker, Standing Order 48(1), most respectfully please.

Madam Speaker: So, Member for Naparima, I understand your general point, but I not going to allow you to develop those individual issues which you are outlining there. In terms of relevance, I uphold the Attorney General.

Mr. R. Charles: I will be guided. Madam Speaker, going back to the SIU, which is the parallel for our PCA, when you look at the staffing there, Madam Speaker, you see why what we are doing today is a waste of time? It is a waste of time.

Madam Speaker, the SIU has over 80 members—80 staff members, with a breadth of knowledge and experience in both investigation and rules. They have medical doctors on their staff. Madam Speaker, they have lead investigators from the Ontario Ministry of Labour from a wide range, Ministry of the Attorney General, university campus staff, qualified professors who were part of the SIU.

Mr. Al-Rawi: I rise on Standing Order 48(1) and 55(1)(b), Madam Speaker.

Mr. R. Charles: And lastly—

Madam Speaker: So again, I uphold the Attorney General. So I guess when you say “and lastly”, it means that you are coming off that point and you are coming back to what is before us.

Mr. R. Charles: I agree. And the very last sentence I will make there, they have forensic and pathologists on their staff.

Madam Speaker: Member, excuse me. Member for Naparima, it cannot be lastly. I have already ruled, so you therefore go on to another point but relate it to this.

Mr. R. Charles: We do not know the outcomes of most PCA investigations. We do not know. When a case goes to the DPP or the Commissioner of Police, most times, we hear nothing of it.

In 2019, the PCA indicated that they sent four matters to the DPP and 28 to the Commissioner of Police. Madam Speaker, in 2018—sorry, in 2018, they sent two to the DPP and 34 for the Commissioner of Police. I challenge the Attorney General to come and tell us here today, in the winding up, what are the results of those cases that were forwarded to the Commissioner of Police. [*Desk thumping*] Come and talk. In 2017, Madam Speaker, 17 matters were sent to the DPP and 80,

8-0, to the Commissioner of Police. We want facts, we want relevance. 2016, 7 to the DPP and 28 to the Commissioner of Police, a total of 30 matters before the DPP in those four years. How many are completed? How many officers have been convicted and how many have been acquitted? How do these amendments address those issues? Tell me. Pray tell me, how do these amendments?

Madam Speaker, cases of past police killings with no resolution today. We are talking discipline today and I am giving you an example of concerns in those areas with no resolution. The killing of 14-year-old Naomi Nelson on May 03, 2019, still awaiting ballistic test. So we come here—Madam Speaker, I have friends—because I worked at the UN and they are in the Singapore and they all over—and they looked at what is happening here in Parliament. You know what they told me? Charles, it is a plaster on the sore. That is what my foreign friends tell me. They know nothing, little, will happen out of what we are doing here today. [*Desk thumping*]

A second example, October 25, 2018, killing of 15-year-old Shakeem Francois, 17-year-old Kadeem Phillip, 20-year-old Shondell St. Clair; all of them one [*Inaudible*]*—*22-year-old Mechack Douglas and 23-year-old Nicholas Barker. You know what, Madam Speaker? Case forwarded to the DPP; no further update. For heaven's sake, these are citizens of the country killed, and all we are saying is police may be innocent. They may be innocent. Let us know—transparency. If I could know what takes place in Canada, I ought to know what happens in my country, and as a parliamentarian in the Opposition side, shadow for National Security, I ought to be able to speak with authority on those things. [*Desk thumping*] June 27, 2020—June—[*Interruption*]

Madam Speaker: Members, I am having serious difficulty in hearing the Member for Naparima and I usually do not.

Mr. R. Charles: 27th of June, 2020, killing of Joel Jacob, Noel Diamond, Israel Clinton—

Mr. Al-Rawi: Madam Speaker, I rise on Standing Orders 55(1)(b) and 48(1).

Madam Speaker: I will give you some leeway because I understand you to be developing that in terms of transparency. Go ahead.

Mr. R. Charles:—case forwarded to the DPP; no further updates. And one more example I could give—I could give a plethora of examples of us not knowing the question of transparency, what takes place. The killing of Carlos Manuel.

Madam Speaker: Members.

Mr. R. Charles: The case of Carlos Manuel Olive Cruz on the 2nd of October. This is roughly the same time—the incident I read of the SIU in Canada, charges laid, four months. This is four months in Trinidad. Do you know what Third World Trinidad is saying? Case forwarded to the DPP; no further action. I could rest my case and leave, Madam Speaker. There are countless others. [*Desk thumping*] Something has to change. We cannot come here and put plaster on the sores.

Madam Speaker, *Express*, February the 16th, 2021, Minister Young stated that:

The—“...(PCA) has all the...”—powers required—“to facilitate investigations at this stage...”

Madam Speaker, while that sounds good, well-articulated, investigations, as I said, must lead to end results whether it is conviction or acquittal. Do not come here and say that the PCA has all the powers for investigation, but the records show the cases are pending for years because the DPP’s Office is overburdened.

Madam Speaker, I will always say that we on this side will support good law, and we then went through these things, you know, clause this and what. For example, we talk about clause—where the Attorney General—sorry, where the

Commissioner of Police is supposed to give a report to the Police Complaints Authority. That is inconsequential. That is pedestrian, Madam Speaker. The fundamental issues about police, SRPs and discipline, we fall back to think—Madam Speaker, I would not go there, but areas of recruitment—areas of recruitment and SRPs, but I am not going there. I am not going there today.

Madam Speaker: I am happy you told me in front you are not going there.

Mr. R. Charles: Right. So what we are saying is this Attorney General must stop bringing half-baked laws to Parliament. The Government must strengthen, resource, and properly fund institutions like the Forensic Science Centre, the DPP, which work in unison with the PCA to complete investigations.

Further to that, the Attorney General must either fully equip, staff and upgrade the DPP's Office to significantly improve its capabilities—

Mr. Deyalsingh: Madam Speaker, Standing Order 48—

Mr. R. Charles:—and ensure the cases of police—

Mr. Deyalsingh: Standing Orders 48(1) and 55(1)(b). He is repeating—

Madam Speaker: The Member, the Member.

Mr. Deyalsingh:—himself over and over.

Madam Speaker: So, I am not ruling on 55(1)(b) as yet. Member, I think I understand your total overview but I think you can move on to another point. For most of your contribution, you have really been on 3(f) not being of any consequence without being the sources. So I think you have beaten that and you can go on to another point.

Mr. R. Charles: Right. So, Madam Speaker, we have no issue with 13A:

“Where the Director or...”—DPP—“dies, resigns, is removed from or otherwise vacates his office prior to the expiry term for which he has been appointed, the Authority is deemed to be properly constituted...”

We have no problem with that. We have no problem with inserting Assistant Commissioner means the Director, or Assistant Commissioner of Municipal Police. We have no problem with definitional issues like the police force being changed to police service. That is cosmetic, Madam Speaker.

What we are saying fundamentally is that the time has come for this Attorney General and for this Parliament to recognize that we need fundamental changes to deal with crime, and if we continue with piecemeal plaster on the sores we will not solve crime in Trinidad and Tobago. [*Desk thumping*] And I just want to in closing state that we ought to comparatively look at a situation where 15 million people living Ontario, and they only have 266 homicides in Ontario and 78 in Toronto. We have to start thinking where do we fit into the global village and to realize that we are not performing. Much more needs to be done and this Attorney General needs to recognize two things: that we cannot solve crime by legislation and secondly, the legislation he brings is a mere plaster on the sore and is not dealing with the fundamental issues. [*Desk thumping*]

Madam Speaker: Minister of National Security.

The Minister of National Security and Minister in the Office of the Prime Minister (Hon. Stuart Young): Thank you very much, Madam Speaker. Madam Speaker, as I rise to join and to make a contribution with respect to the Bill before us here today, it is as usual to bring it back into the context of the Bill that is before us and to try and decipher through the ramblings that we just were subjected to. [*Desk thumping*] Because, you see, the technique of just coming and throwing ramblings and what we have now realized is a regurgitation of newspaper reports—

Dr. Moonilal: Madam Speaker, Standing Order—

Hon. S. Young: Oh God.

Dr. Moonilal: Standing Order 48(4). The Member should not be referring to another Member as rambling and so on. He can find a better term.

Madam Speaker: Okay. So I will ask you, Member, to find another word. Okay? Because again, we are trying to cultivate a certain type of atmosphere.

Hon. S. Young: The vacuous contribution? [*Desk thumping*] So, Madam Speaker, we are here this afternoon to deal with certain amendments being proposed to the Special Reserve Police Act and the Police Complaints Authority Act, very simply.

To start with, Madam Speaker, it is the prerogative of a government, whilst in power, to decide policy. And as I sat here and I listened, I wondered where those on the other side were when I reminded the population, not only were they in government from 2010—2015, but they had a special majority as well and could have made the most wide-reaching amendments, repeals of law, bringing of new law, et cetera, without the need for an Opposition's support. Of course, that did not happen. So what we are here today to do is to make certain very focused, very purposeful amendments to two pieces of legislation. To dismiss with the first one, which is the Special Reserve Police Act, what we are seeking here to do is to close a lacuna, a gap in the law, and we start off with clause 2 of this Bill by saying that the Special Reserve Police, the SRPs as we know them, the Regulations that are made under the Police Service Act are now expressly deemed to be applicable for SRPs—we heard absolutely no response to that—because it is necessary.

Now, there was a lot of suggestion, Madam Speaker, that the PCA needed further powers. So I think it is quite apt to start by reminding the population of the existing powers of the PCA, the Police Complaints Authority. And I would like to start at section 19 of the Act, Madam Speaker, and through you, to remind the population that the PCA is an independent body. In fact, if we start to the preamble to just bring this debate back into context, the preamble says that the PCA is:

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

Section 19 goes on, Madam Speaker, to say that:

“The Authority is not subject to the direction or control of any other person...”

So expressly, in law, the PCA’s independence is protected and that is not to be underestimated.

We then go to the functions of the PCA to just try and bring all of this back into context, and for the population to understand, through you, Madam Speaker, exactly what it is the PCA’s functions are. The functions of the PCA, Madam Speaker, are, firstly:

“(a) investigate criminal offences involving police officers, police corruption and serious police misconduct;”

And one of the main pillars of the Bill that we are here to debate today, and I am sure to pass today, is to now throw that web, that net that the PCA has also over special reserve policemen and the municipal police. Because, you see, the need to get the municipal police under the PCA is as a result of this Government’s policy of expanding the municipal police. [*Desk thumping*] Because this Government believes in the actions, and what we have done is we have expanded the municipal police in each of the 14 municipalities to allow better community policing.

We are also cognizant that in doing so, you need to have them with some oversight. The body that the Parliament, in 2006, decided an independent body to create is the PCA. The PCA’s powers and functions back to that, Madam Speaker. The second thing is the PCA is to:

“(b) undertake inquiries into, or audits of, any aspect of police activities

for the purpose of ascertaining whether there is police corruption or serious police misconduct or circumstances that may be conducive to both;”

The PCA’s function is also to:

“(c) monitor an investigation conducted by any other person or authority in relation to any matter mentioned...”—above.

So the police corruption, et cetera. And these are the functions of the PCA. So the PCA can be monitoring internal police investigations. So recently, where you had the Professional Standards Bureau, which is equivalent of the Internal Affairs Division in the police service, looking into certain activities of other police officers, the PCA can now call upon them.

The PCA has oversight over that work. The PCA can gather evidence. Their function is to:

“(f) gather evidence that may be used in the investigation of serious police misconduct...furnish such evidence to the Commissioner or the Commission”—the Police Service Commission—“for appropriate action;”

The PCA’s function is to:

“(g) gather evidence that can be used in the prosecution of a police officer involved in a criminal offence and furnish such evidence to the Director of Public Prosecutions...”

Which brings me to another point that the Member before—the Member for Naparima was making. All this screaming and shouting about giving prosecutorial powers to the PCA, that is not the policy decision of this Government.

The Constitution. What he fails to recognize and I accept he is not a lawyer—I am not quite sure what he is—the Member for Naparima is ignoring

section 90 of the Constitution. Section 90 of the Constitution creates this creature, that is the Director of Public Prosecutions, and puts him for obvious reasons as the only person in charge of criminal matters in the courts of Trinidad and Tobago, and that is to protect against anybody interfering in criminal prosecution of persons. Because, you see, the end result of a successful criminal prosecution can be incarceration. It is taking away of persons' liberty.

So the framers of the Constitution saw it fit to give that power to the DPP [*Desk thumping*] and that is being completely ignored here today. But furthermore, in answer to the suggestion that the PCA should have prosecutorial powers, any person can write to the DPP, the Director of Public Prosecutions, and I know that as a fact, the PCA has done this on a number of occasions and have been granted something call a fiat. So we are not hearing at all here this afternoon that if the PCA feels so strongly about the work they have done, so strongly about an investigation they have conducted, so strongly about the desire to prosecute and to carry that through the criminal court system, they simply have to write to the Director of Public Prosecutions and ask for a fiat to so prosecute the matter. And they have done on a number of occasions and they have gone on to prosecute the matter.

So let go now to the powers of the PCA because this is what is being completely overlooked by the previous speaker. Section 22 of the Police Complaints Authority Act says that the PCA:

“(1) ...has powers of a commission of enquiry established under the Commissions of Enquiry Act as if it were...”

That is to give you the ability to summon persons, to ask for certain information.

“(2) ...the Authority shall also have the power to require—

(b) any person, within a specified time and in writing, to provide

any information or...answer any question which the Authority considers necessary in connection with any investigation which the Authority is empowered to conduct under this Act..."

What broader powers—what additional powers does the PCA require?

So the PCA has been—it is this Government's submission, it is this Government's position that the PCA has current power—the powers they currently have are sufficient to conduct the necessary investigations they are required to do.

3.15 p.m.

So we come now to the Bill that is here before us today and you go to clause 3 of the Bill which is the expansion. All of the things in clause 3 or the majority are—these are amendments necessary to give effect to the decision that the PCA should have jurisdiction over SRPs and municipal police. Right. We heard a lot of talk about the PCA needing additional powers, powers to arrest and to prosecute police officers. That is not where we are going at this current point in time. What we are here today is to just give the PCA additional necessary jurisdiction over persons who are functioning in our society today as police officers, the SRPs and municipal police. This complaint about no action by the DPP and then there was a most ridiculous submission, Madam Speaker, we do not hear about convictions and exonerations.

I want to put down a marker here today, Madam Speaker, because this false argument, this misleading proposition, completely ignores the separation of powers and it is a dangerous, dangerous argument that is being picked up now by international bodies as well where they keep moving the goalpost. How could any Government, how could any legislature be charged with the responsibility of securing a conviction? [*Desk thumping*] Do the Members on the opposite side even understand that proposition? So to say that via legislation, you secure a

conviction, is the most ridiculous, abusive, unconstitutional proposition I have ever heard. [*Desk thumping*] You see, this Government believes in separation of powers. So all the police are required to do: investigate the crime, in this case, the PCA; conduct your investigation, make your recommendations to the DPP or the Commissioner of Police or both; the DPP and the Commissioner of Police lay the charges and take the matter to court.

I want the Members on the other side and in particular, the lawyers on the other side, who I am sure will get up to explain to the population how it is they propose that convictions should be secured by: a, a legislature such as us; or b, by a Government that has no place, in our respectful view, in criminal prosecution because that is a fearful submission being made here today. How is it that they should secure convictions? That is the job for the Judiciary. That is the job for the same lawyers that every time “yuh say anything bout the lawyers, all of ah sudden, certain lawyers in the Law Association wake up”. They are the ones responsible for securing convictions. You could imagine—and I challenge those on the other side, Madam Speaker, come with the amendments to secure convictions, come with the amendments that the defence attorneys will not delay trials, [*Desk thumping*] come with the amendments to show that the Judiciary is not doing what they are supposed to do, instead “ah all de ole talk” and the screaming and the shouting. So we reject that outright. Right.

This talk about the former Speaker had about SRPs being treated like “outside children” and being treated badly, not paid their salaries. I remind those on the other side that the Commissioner of Police—the current Commissioner of Police, since he came into office in August 2018, that complaint has not been heard. Furthermore, section 123A of the Constitution gives the Commissioner of Police and him alone, him alone, the constitutional responsibility to deal with the

administration and the financial aspects of the Trinidad and Tobago Police Service. So do not come here today, as usual, in an attempt to mislead the population to say it has anything to do with the Government and we have heard no complaints over the last two and a half years about the payments of salary and if there are, they are very quickly resolved, but there is nothing that the Government does in that aspect.

“We do not know the...”

This was amongst the most disturbing and maybe even ridiculous propositions of the previous speaker and I quote:

“We do not know the outcomes of...PCA investigations.”—which sent on. Well, the whole purpose of the new insertion of a 44A into the PCA Act is to deal with exactly that. It says:

“The Commissioner or the Assistant Commissioner...”

So it is the Commissioner for the Trinidad and Tobago Police Service, the Assistant Commissioner for municipal police.

“...as the case may be, shall...”

Mandatory, obligatory.

“...within three months of the Authority making a recommendation in accordance with section 44(2), provide the Authority”—basically— with—”
—an update.

“(a) a written decision, with reasons...”

So it is not only a written decision—I am doing or I am not doing—provide the reasons why “yuh doing or yuh not doing”, with respect to the recommendation. So we have now come here today to building an accountability provision that when the PCA does its work and sends it forward, the police now have an obligation, including the municipal police, within a period of three months to update on what has taken place and a written update on the progress of a matter.

Now, it cannot be that those on the other side—but I would not put it past them—are suggesting now that the DPP must come and tell the population on every occasion why it is that he or she is not doing something with the PCA report, because the whole purpose of that amendment that I have just referred to is for the police to report to the population—to report to the PCA what they have done with it. The only other body the PCA sends it on to is the DPP.

I heard some talk about the Forensic Science Centre and about the DPP. Madam Speaker, through you, just to put on the table, the Forensic Science Centre, the whole area of ballistics, the whole area of taking the policing and the gathering of evidence into the 21st Century has been taking place. Within the last month and a half, we have opened a new ballistics recovery unit up in Cumuto, state of the art and that is to deal with the backlog with respect to ballistics, so that work is taking place. On Monday, along with the Commissioner of Police, I will launch further training into ballistics intelligence gathering. Again, that is going to help in the uptick of detections and hopefully successful prosecutions.

Yesterday or two days ago, we launched a simulation centre to train police officers in the crime scene investigation. [*Desk thumping*] This is just what has gone on in the last month and a half. The work is taking place. The backlog is being cleared at the Forensic Science Centre for the first time. With limited resources, we trained 26 officers in ballistics. When the money was flowing and “the limes were going on down at the Hyatt” and the parties and that kinda thing, and the spending of the millions of dollars, why did they not take some of that and fix these little areas? [*Desk thumping*]

So, Madam Speaker, this Bill here today is a simple one and what it is doing, it is just bringing, under the ambit of Police Complaints Authority, the municipal police, the SRPs. It is plugging some holes where before—the PCA was rightly

saying, look, we have done our work, we do not know what has happened with our work so we are now calling on the police service, through the Commissioner of Police and Assistant Commissioner in charge of municipal police, to just report. You have three months to report.

We are plugging another very important hole that the Attorney General referred to, that we all know about. Before the PCA Act said that you had to have in place at all times a director and a deputy director. If one or the other was not in place, it stopped the whole running of the organization. We are now giving three months that if there is no director, the deputy can do it; if there is no deputy, the director can do it. And these are the amendments that are being done here today.

Coming here this afternoon, I was wondering, what could be the possible—possible objections to this Bill here this afternoon and so far, we have heard none. What we have heard is: “You need to add this, there should be more of that”. So, Madam Speaker, what I would like to say is thank you for time to have made my contribution. Thank you for this very important set of amendments to the legislation. PCA, continue doing what you are doing. You have the power, you know what your functions are and you have the support of this Government to do your job independently.

Thank you, Madam Speaker. [*Desk thumping*]

Mr. Saddam Hosein (*Barataria/San Juan*): Thank you, Madam Speaker. Madam Speaker, thank you very much for giving me the opportunity to rise in this honourable Chamber to add my voice to a Bill to amend the Special Reserve Police Act, Chap. 15:03 and the Police Complaints Authority Act, Chap. 15:05.

And, Madam Speaker, I have to rebut some of the distractions that the Minister of National Security has placed on the parliamentary record. And he is accusing us, in the Opposition, that we are asking for the Legislature to secure convictions. Now,

any law student will tell you that there is a separation of powers which maybe they do not understand, [*Desk thumping*] that it is for the Legislature to make laws, it is for the Executive to make the policy and for the Judiciary to ensure the convictions of an individual. But what is important is that the Executive must have the policy first, then make good law in order for the Judiciary to have convictions. [*Desk thumping*] That is what he did not say.

And, Madam Speaker, at the end of the day, increased convictions will show the effectiveness of the law. It will add to what we call the deterrence theory. So if a person commits a disciplinary offence, for example, in this matter or a criminal offence with regard to police officers, you would realize that it creates a deterrence which will show that the Government has actually thought out this thing properly and has done their homework, so that the Judiciary is in a position now that it is resourced properly, the police have the proper laws, there are proper rules of evidence in order to secure proper convictions. [*Desk thumping*] And no one on the Opposition is asking this Parliament to convict someone. We are asking the Government to ensure that you resource the police service and the Judiciary [*Desk thumping*] so that they could secure convictions.

Because I have an article here, Madam Speaker, Thursday, 25th of February, 2021, which says:

“Griffith: Police still waiting for funds to pay debt”

And the Police Commissioner is complaining that he spends one-third of his entire day trying to stop suppliers from pulling the plug on them because they owe \$185 million in services. And then you have the gall and the audacity to come in this Parliament [*Desk thumping*] and complain that we are asking for convictions. We are telling you to resource the police, give the Commissioner of Police the money in order to run the police service. Give the courts the money to run the courts.

Mr. Deyalsingh: Madam Speaker, Standing Orders 48(1) and 55(1)(b). That was dealt with by the former speaker about resourcing the police and all that.

Madam Speaker: Okay. So Member for Barataria/San Juan, remember what this Bill is about. It is about the PCA, strengthening the PCA and therefore, not about resourcing the police. Now while you said you answered—rebutted something that your friend on the other side made, I think going down the rabbit hole you are going now is into another area that I am not going to allow you to develop in this debate.

Mr. S. Hosein: Thank you very much, Madam Speaker. And, Madam Speaker, if you would just allow me, there is one other point that I would just like to rebut the Minister of National Security on is that there was an attack on the Law Association of Trinidad and Tobago. And I think I have to put it on the record, Madam Speaker, that you cannot continue to attack lawyers [*Desk thumping*] who stand up for the rights, freedoms and constitutional privileges of ordinary citizens of this country, especially when you hold the position of the Minister of National Security, [*Desk thumping*] where you took an oath of office to protect each and every citizen, no matter their opinion or point of view in this country. And I leave that right there, Madam Speaker. [*Crosstalk*]

Now, Madam Speaker, getting to the Bill. This Bill has three clauses and in these three clauses, we have two substantial clauses which will deal, one, clause 2 that will deal with the amendment to the Special Reserve Police Act and then we will have clause 3 amending the Police Complaints Authority Act.

Madam Speaker: Members, it is challenging enough for us to hear each other with the mask, it is challenging enough. And therefore, all the other noises create a greater difficulty. So I will ask Members to comply with the Standing Order 53 and if it is that a Member needs or more than one, they are compelled to have a

conversation, then you know you are free to go outside, have your conversation and I gladly welcome you back in.

Mr. S. Hosein: Thank you very much, Madam Speaker. The SRP Act really deals with a matter of discipline and the disciplining of the SRP police officers. The PCA Act has some very simple amendments in terms of definitional amendments and then two substantial insertions of sections 13A and 44A, which I will get to later on in my contribution. But I would just firstly like to deal with the issues relating to SRP Act.

Now, Madam Speaker, when you look at the parent Act, the SRP Act, there are provisions which are found at section 22 of the Act where the Minister—and in this case, the Minister of National Security—is entrusted with the power under the Act to make regulations for disciplining SRP officers and this is found at 22(2), Madam Speaker, and it talks about:

- “(e) the discipline and guidance of the Special Reserve Police;
- (f) the setting up of Disciplinary Boards to investigate breaches of discipline and to award punishment, if necessary, and the powers and duties of the Disciplinary Boards;”

And:

- “(g) ensuring the compulsory attendance of witnesses and production of the documents before any Disciplinary Board;”

So under the Special Reserve Police Act, you already have a regime set up where regulations can be made by the Minister in order to make regulations for the disciplining of SRP officers.

Then when you look at section 5 of the Act also, Madam Speaker, you will see that there is a special regime there also where:

- “Every member of the Special Reserve Police who commits any of the

offences”

Such as:

- “(a) insubordination;
- (b) wilful disobedience of a lawful order;
- (d) absence from parade, drill, or duty without leave;”

—and other behaviours that are outlined in the Act, Madam Speaker, you would see that they fall under a special disciplinary system.

But what this Bill intends to do now is to bring the SRP officers under the system as regular police officers and the regular police officers are subject to the Police Service Regulations of 2007 which deals with the disciplining of regular police officers and there is an entire system that is set up under the Police Service Regulations for disciplining of officers. So now, the SRP officers will fall under section 5 of the Act and also now under the regulations relating to the disciplining of regular police officers under the Police Service Regulations, 2007. So now the SRP officers are somewhat at a bit of a disadvantage because they now can be disciplined under two systems.

Now, the Attorney General in his piloting of this particular Bill indicated that the regulations for the disciplining of SRP officers will be coming shortly. Well, Madam Speaker, if it is coming shortly, then why are we doing this right now? Why could we not just wait until those regulations are in place? Because we have not had regulations since the passage of this Act which was sometime—this is Act No. 14 of 1946. So that is one of the issues that I would like to raise with respect to that. Because under this particular SRP Act, there are provisions for the Minister of National Security to make regulations for disciplining of SRP officers.

Now, Madam Speaker, when you look at what currently exists and what the SRP officers will be subjected to, it is really three systems of discipline. You have

the Police Complaints Authority, which is internal to the TTPS; you have the Professional Standards Bureau, which is also internal to the TTPS, and now you have the PCA, Police Complaints Authority, which is external to the TTPS but an independent authority, as outlined by various speakers that came before me. And what happens with this is that it is somewhat of a convoluted process and this was actually outlined very comprehensively in the Police Manpower Audit Report, and the Joint Select Committee on National Security did in fact examine the Police Manpower Audit Report in the last Parliament, in the Eleventh Parliament and a report was produced in that particular Joint Select Committee. And, Madam Speaker, if you would allow me, I would like to just go through some of the issues directly relating to the current disciplinary procedures as outlined in the particular Act, what these SRP officers will now be subjected to as proposed in this particular legislation.

And in the Police Manpower Audit Report, Madam Speaker, it spoke of several issues with respect to the disciplinary process and one in particular dealt with the length of time matters are taken to be disposed of and in some instances, we saw that the number of complaints were increasing. So in the report, it says that complaints—and the report, it was submitted in 2017, so we have four years after this report was submitted. I hope things have changed as compared to what have been outlined here. Complaints have increased by 8 per cent from 2014 to 2015 from 712 complaints to 770 and by 15 per cent from 2015 to 2016 from 770 to 887, or looked at in another way, an increase by 25 per cent from 2014 to 2016. Now, that is something to be concerned and to be worried about, and what the Bill is trying to do is now create a system whereby we will have proper disciplining of SRP officers.

Now, the number of complaints here were not disaggregated between regular

police officers and SRP officers but, Madam Speaker, we all know that there are issues in the TTPS in relation to discipline. Now, this report in fact was quite startling because some of the issues that they outlined again, Madam Speaker, is that under the present system, you will have the Commissioner of Police setting up a tribunal of First Division Officers and sometimes those very officers who sit on the tribunal to discipline various police officers, they have other duties which may amount to poor attendance at the tribunal. This was actually outlined in the Police Manpower Audit Report.

And what was very startling, at page 174, Volume One of the Report, if you would allow me to quote, Madam Speaker, it says:

“In fact, there is a current case where a matter was called 55 times, the Officer was not served 41 times, there was not a quorum...30 times and the matter was fixed for trial 2 times and it has not been resolved to date.”

And now, you have—if I could get the figures that the Attorney General provided. Madam Speaker, you have that system being burdened by over 6,900 regular officers and now you are adding over 4,000 more officers on the same system. So before you should have subjected the SRP to this particular regime, you should have fixed the existing regime [*Desk thumping*] because nothing has changed. Nothing has changed.

And, Madam Speaker, they spoke of the process of disclosing documents is also an issue at the disciplinary tribunal. Training is also an issue. You also have that there is a lack of public confidence as there are police officers investigating police officers and that is a serious issue when it comes to the public confidence in this. And then you have also where a concern was raised where the tribunal officers are also selected at the discretion of the Commissioner of Police.

Mr. Deyalsingh: Madam Speaker, Standing Order 48(1). This is not about the

police tribunal system, this is about the PCA.

Madam Speaker: I would allow the Member to continue because I believe he is dealing with clause 2. [*Desk thumping*]

Mr. S. Hosein: Thank you very much, Madam Speaker, thank you very much for understanding. Madam Speaker, when you look at what the issues have been outlined there, there are also suggestions because we are not in this Parliament alone in order to identify the issues. And the former Commissioner of Police, he did in fact make written submissions to that Joint Select Committee by a letter dated 09 March, 2018, and what he has suggested is that there must be a redesigned disciplinary process adding in terms of, for example, reconfiguration of the performance management system, the continuation of police discipline caravans. You also have merging the Professional Standards Bureau and the Police Complaints Authority which are currently now separate and even Prof. Deosaran in his report indicated that he—and the population may not understand the exact difference between the both, because, one, the Professional Standards Bureau deals with criminal conduct of police officers, whereas the Police Complaints Authority deals with general misconduct in terms of breaches of orders and so on.

So those are some of the issues that they outlined in terms of this disciplinary procedure when it comes to the regular police officer and now the SRPs are falling into this. It spoke of decentralization, Madam Speaker, proper establishments of tribunals, simultaneous proceedings in terms of criminal charges and disciplinary charges and one very important thing, mediation, because we know how effective sometimes alternative dispute resolution can work in order to save resources, manage resources of the parties and ensure a speedier and expeditious outcome of a particular matter. And we know that is something that we have seen borne fruit from the Civil Proceedings Rules which are very involved

with ADR and that is something is being suggested here, that it should not just be strict court system but always have the parties talking in order to properly resolve and mediate certain issues.

Now, Madam Speaker, one particular issue that I realized with the drafting of the Bill is this, there is a term being used at clause 2 which says “serious police misconduct”. So:

“Regulations made under the Police Service Act are deemed to be applicable to any matter concerning serious police misconduct...”

But when I looked at the regulations, Madam Speaker, I did not see a particular definition of what would amount to serious police misconduct. Now, that definition is actually found in the Police Complaints Authority Act and it is well defined, but it is not properly defined in the Police Service Regulations. And I do not know if that is an oversight on the part of drafting and that is something that we may have to look at closely when we get to the committee stage of this particular Bill, because that is something, Madam Speaker, we do not want to have to come back to this Parliament in order to amend something. We should take our time and ensure that we pass good law in this Parliament. [*Desk thumping*]

Recently, Madam Speaker, you would have seen in the public domain that one particular issue that we are having problems with in terms of the discipline of officers is the attendance in court, and that is something that I believe that the TTPS right now is treating with. There is an article from the *Newsday* dated the 25th of February, 2021—

Madam Speaker: Okay, so unless you could show me right away how that relates to this Bill, I think you should go on to another point.

Mr. S. Hosein: Definitely, Madam Speaker. Now, Madam Speaker, what the senior officer there was recommending is that they classified the disciplinary

procedures for officers who do not attend court because currently, apparently, if an officer does not attend court, he does not get paid for that particular day. What they are calling for now is—

Madam Speaker: Okay. I am still having a difficulty in seeing its relationship to this so that I think you should go on to another point.

Mr. S. Hosein: Okay. I oblige, Madam Speaker, but that is just the point there with respect to police misconduct and the non-attendance of police officers in court.

Now, when you look at what is going to take place with respect to the Police Complaints Authority is that there are several amendments that are going to be made to the parent Act and the insertion of various clauses. Now, one clause that I particularly found interesting is the clause that deals with, in particular, the Police Commissioner now being subjected to a statutory duty in order to report to the Police Complaints Authority.

So basically, the Commissioner of Police has no discretion in this matter and he can in fact now be subjected to the PCA. Now, I do not know whether or not we are tripping on a constitutional issue here with respect to the independence of the Commissioner of Police Office, because his office is set up under the Constitution of the Republic of Trinidad and Tobago, and we are subjecting him to a particular piece of legislation as the PCA Act.

3.45 p.m.

But, Madam Speaker, what that provision actually does is auger accountability because sometimes matters will be recommended by the PCA to the Commissioner of Police, and no action is taken. So therefore, this is a good system in terms of ensuring that there is a level of accountability. Let us ensure that it does not trip any constitutional boundaries if we are going to pass this particular piece

of law in this Parliament, Madam Speaker. Because now, the Commissioner has a very short window in order to provide an update to the PCA, and I thank you very much for your indulgence. [*Desk thumping*]

Madam Speaker: Member for Port of Spain South.

Mr. Keith Scotland (*Port of Spain South*): Madam Speaker, good afternoon. Having heard the hon. Members on the other side I have to remind myself that what we are about this afternoon is a Bill to amend the Special Reserve Police Act and the Police Complaints Authority Act, to strengthen the operations of the Police Complaints Authority.

Madam Speaker, I have heard criticisms of the hon. Member for Port of Spain North/St. Ann's West and I think he needs no defence attorney but I think they are unjustified and I think, Madam Speaker, that we need to put it in this House that if the hon. Member expresses an opinion that runs contrary to the opinion of the Law Association, he is not attacking the Law Association, he is expressing his opinion which he is constitutionally entitled to do. If he says, "lawyers, attend court and do your matters", what is wrong with that?

So, I want to first put that on record, and I want to go back to the Bill. Madam Speaker, I had no inertia about this Bill. I was enthused, maybe it is because I am not a year yet here, but I was excited about this Bill. And here is why, Madam Speaker. Because this Bill could not come at a more opportune time in Trinidad and Tobago. [*Desk thumping*] Here is why. The country is calling for more robust policing but in robust policing, you must have some independent body that oversees the police force, and that independent body is the Police Complaints Authority. [*Desk thumping*] And whilst their policing is robust and the Government supports it, we say let us balance because we are here to govern. And we balance it by giving the Police Complaints Authority more power in order to

strengthen their operations. That is protecting the rights of citizens and that is good governance in Trinidad and Tobago. [*Desk thumping*]

Madam Speaker, let me do the lecturer part in me now. I have heard from the other side, the hon. Member for Naparima, the hon. Member for San Juan/Barataria seems to have touched on it, about giving the Police Complaints Authority prosecutorial powers. Madam Speaker, I am in this House so if I am wrong I know the others will Google it and correct me. There is a case that went to the Privy Council, Hinds—not Fitzgerald—*Hinds v The Queen, 1976*, 1 All England Reports at page 353. In that case the Government of Jamaica in the early '70s, they were faced with a gun problem and they decided they will create a special court and take the powers of prosecuting and sentencing out of the courts and give it to lay magistrates. Madam Speaker, the Privy Council had no compunction in holding that law unconstitutional. How can this Government, as a responsive government, as a responsible government who reads the law and who understands separation of powers, [*Desk thumping*] implement legislation and policy which the Privy Council 30 years ago in *Hinds v The Queen* has said it is unconstitutional. What we have done is to be measured, to be sober and to be effective.

I say that because if you look at the various amendments to this Bill, Madam Speaker, you will see that indeed it strengthens the Police Complaints Authority and it gives the Complaints Authority the power now to have oversight in a limited way, with respect to all police officers including Special Reserve Police officers and Municipal Police. That is good governance and that makes sense.

The hon. Member for San Juan/Barataria says that is it is now creating a three tier of discipline. What is wrong with three tiers of discipline all independent of each other? And may I this, the Police Complaints Authority has no power to

discipline. It is to investigate and to make recommendations. Now, Madam Speaker, it could be that we on this side, we are drinking our own Kool-Aid, you know, because whilst we think we are doing well, the population may be “steupsing” at us and saying, “No, you are doing nothing”. So it is our duty to impart and to show that we are doing something, and with this legislation I say that we are doing something.

Here is how we are doing something. By putting the Municipal Police and the Special Reserve Police officer, in keeping with clause 2 of the Bill which amends section 23 of the SRP Act, to make any matter of serious police misconduct “investigatable” by the Police Complaints Authority, we have established uniformity across the board. It means that you do not have to know who or where the police officer, which branch of the police, be it municipal be it the regular police or the SRP, once it is an act of serious misconduct, the Police Complaints Authority now has the power to investigate and report. That creates symmetry.

The next clause—and the learned, and the hon. Member for San Juan/Barataria touched on it but in a roundabout way. I think he wanted to praise the Government, hon. Member, if you wanted to praise the Government, praise the Government. Do not do it backhanded. [*Desk thumping*] Because what it does, it inserts section 44A and it puts the Commissioner of Police under an obligation when he receives a serious report from the Police Complaints Authority, one, to report within three months, and two, to report in writing. And most importantly it says, report “...with reasons...”.

The reporting in writing with reasons, what it does is that it eliminates capriciousness. You must tell us what you did, why you did it, how you do it, in writing and in a timely fashion. So, all this talk about this development or the

creation of backlog, this time frame and this reporting in writing will deal with it in a legislative way. So that I say is another piece of the legislation which is important.

Madam Speaker, permit me some latitude to show the population and to show the hon. Chair, and the Members, the hon. Members on the other side how this Government is working legislatively. You would recall in December we brought to this House, Act No. 29 of 2020, the Miscellaneous Provisions (Administration of Justice) Act, 2020, and in this piece of legislation, section 5 of it amended the Coroners Act to give the Police Complaints Authority *locus standi*, the power to appear at a coroner's inquest in order to be there and present their findings.

When you compare that to this legislation, now you see how this Government is working to strengthen the operations and the performance because now in a practical sense whereas before you had the Police Complaints Authority having no voice before a coroner's inquest, now, the Police Complaints Authority has a serious voice and can go before a coroner and present the information they have gathered. How is that important?

Well, Madam Speaker, over the past 10 years, out of the 97 matters sent to the Director of Public Prosecutions by the PCA, 36 were related to fatal shootings by the police. It means then, that the Police Complaints Authority, they are investigating apart from the other matters, serious complaints. And in giving them the teeth now to appear before a coroner's inquest, it means that it is strengthening their operations and strengthening their ability to make a difference in Trinidad and Tobago.

Madam Speaker, of these 36 matters, I will remind the population of the importance of them. I will leave out one, the Moruga killings, because I represent

the parties there. I do not want it to be said in another House; since 2013, I am representing them, but because “ah” here now, there is a conflict of interest. So, I declare my interest and I will not talk about the Moruga killings.

But what about the Sea Lots death in 2013, where the lives of a mother and her two daughters were claimed after a vehicle driven by a police officer collided with them? That matter was investigated by the PCA and reported. What about, Madam Speaker, the torture with methylated spirits where it was alleged that someone was set on fire?

I come closer to home in 2nd Caledonia, the shootings of 2020 where the deceased Joel Jacob, Noel Diamond, Israel Moses-Clinton, were shot in a vehicle. All those are under investigations by the Police Complaints Authority and, Madam Speaker, now, if there is evidence, the Police Complaints Authority has the ability to go before a coroner and bring that before the coroner. Apart from the police, that is good policing. [*Desk thumping*]

But I want to go a little further than this and I want touch home. Madam Speaker, since August 10th I have had the distinct honour and expected singular pleasure of representing the people of Port of Spain South. And as I came to this House on the 12th of February, which was supposed to be—I was already depressed, Madam Speaker, because it was supposed to be Fantastic Friday, and there was nothing happening other than coming to the House, and I got news that a young man in Sea Lots was shot by the police. And on social media the rumour mill started, “they going and burn tyres and people must go home early”; the rumour mill. I of course made a call to my Councillor in the area and we got on top of it.

Madam Speaker, the Sunday was Valentine’s Day, so the Friday we came to Parliament, that was the 12th, the Saturday was the 13th. I gave the mother

sufficient time, and I went down to Sea Lots, that was my Valentine's Day. It was a pleasure and there was no protest. And when I went in and I was speaking to that mother, she could not be more than 100 pounds. Madam Speaker, she said to me, "You know, Mr. Scotland, I will take this to the Police Complaints Authority". And I felt a sense of hope because it could not bring back her son; win, lose or draw, you did not hear her on TV saying, "Meh son innocent". She never said that, so no one can accuse her, no one can look down their noses at her, but she had pride, and the pride stemmed from the Police Complaints Authority as an independent body being able to investigate, and now, being able to present matters at a coroner's inquest for the death of her 20-year-old son. And I say that is good governance. [*Desk thumping*]

So then, Madam Speaker, I lend my support wholeheartedly to this amendment. I say that the hon. Members on the other side have said that they will support the legislation. And I commend the hon. Attorney General for the cocktail of legislation that he has been bringing to this Parliament to strengthen our legislative agenda, and to make life safer for the citizens of Trinidad and Tobago. I thank you, Madam Speaker.

Madam Speaker: Member for Chaguanas West.

Mr. Dinesh Rambally (*Chaguanas West*): Thank you, Madam Speaker, for this opportunity to contribute. Madam Speaker, as I start, I just want to say to my good friend and colleague at the Bar and hon. Member of Parliament for Port of Spain South, I take it that when he started his contribution, he started by saying he was somewhat enthused, but it seems to be that he was suggesting that he is not a person that is easily excitable. And he then made some references to drinking Kool-Aid and things like that, but I want to let him know that that Kool-Aid that he is drinking, keep that on the other side. The people in this country we do not want

Kool-Aid, Madam Speaker, we want water. [*Desk thumping*]

Now, Madam Speaker, another point that I think that the hon. Member for Port of Spain South was making—and I agree with him it is good that that constituent, and I trust that she will obtain justice, and that she will feel that she has obtained justice having regard to those unfortunate circumstances. But we on this side do not want the report to simply be made to the Police Complaints Authority, we want to see that you can have quick action and the matter can be resolved for the benefit of that particular mother and that family. That is what we are talking about on this side. So that is what we want to talk about.

Now, Madam Speaker, the hon. Attorney General in piloting this particular Bill to amend the particular pieces of legislation, Special Reserve Police Act and Police Complaints Authority Act, I know he premised what he was, you know, about to pilot, on the basis that, you know, we are discussing issues of crime these days. It is not only that we are now discussing these issue of crime. You see, Madam Speaker, through you to the hon. Attorney General, what we have been doing on this side is that we ourselves, we have been advocating that we should have proper legislation brought before the Parliament. So it is not a matter of asking the public to advocate that all of a sudden. We have been saying that from day one, please, we need to have proper legislation that can treat—and according to use his words—“this visceral, this perennial” problem of crime. So that is what we are looking at.

And yes you may want to aggressively amend laws, and we will join with you on that, hon. Attorney General, but really the laws must be laws which are fair, balanced, and they must be proper. We do not want—and according to my colleague on this side, the Member for Naparima—we do not want plasters on sores, and we do not want to have piecemeal legislation.

So, I mean no disrespect, Madam Speaker, but I think we have to put that on the record that we will join with them when it is it is good law that is coming before the Parliament. So yes, according to the Attorney General we are looking for oversight. We want to have accountability. We want to have proportionality, yes, all of those things we join with you in ensuring that those things pervade the pieces of legislation. But we really need to see that it is something that is effective.

So, Madam Speaker, I have said enough about what I have heard on the other side. I want to at the outset endorse what my colleague, Member for Barataria/San Juan has said, Member for Naparima, and Madam Speaker, I want say that this Bill that has been presented that seeks to transpose and I say, conveniently transpose and I might add, Madam Speaker, a new section 23 to the existing Special Reserve Police Act. Madam Speaker, it is an attempt to impose on the Special Reserve Police, regulations to deal with serious police conduct. But, Madam Speaker, this I want to say, and I do not mean anything disrespectful, but it is a deceptively simple proposition that this Bill is bringing before the Parliament.

Now, Madam Speaker, as a matter of fact, and I know the speakers before me have said this, this can be deemed to be the final nail in the coffin for the Special Reserve Police officers, in that they are not and they are often perceived as an inferior class of officers, and one might even go so far as to say that they are the bastard child of the service, law enforcement. So what you have is you have this group of officers who already feel slighted for different reasons, and I will get to some of them, not to delve into them too deeply, but you are seeking to impose upon them regulations which really govern the police officers, the police service, that enjoy superior terms and conditions, they have a particular rank, they have a certain status and you want to import these onerous regulations on them—which is good that you want to give them regulations but you have to and—Member for

Naparima had said this—that you need to give them the status as law enforcement police officers. And that is an incentive for them that when they carry out their duties, that they will perform them in a certain way. And yes, when it comes down to dealing with matters of misconduct, yes, apply it across the board. So you could have the importation as this Bill is seeking to do. So, Madam Speaker, it is really, I want say that a harsh reality that we have to treat with when we are dealing with some of these pieces of legislation, because it applies to I think it is according to the Attorney General, maybe 1,300 or 1,500 Special Reserve Police officers.

Now, Madam Speaker, when we look at the duties of the Special Reserve Police officers, their duties are essentially non-specific and quite expansive because they can be called upon to assist in different forms and manners by the Commissioner of Police. And while they are not classified as police officers, when you look at the duties, their duties include duties of the police service, parades, drills and other lawful orders. Now, this is a clear indication that you are setting up a workforce and this is what the SRPs were meant to do. They are setting up a workforce here, Madam Speaker, with as I have indicated before, a subpar status, classified not as police, but you are asking them to carry out the functions of the police officers and that is what I want to say it leads to the other point.

When you look at the offences, some of the offences that they can be punished for, Madam Speaker, let us look, if you want to say you are amending this Bill to bring things and to deal with crime and you are looking at it in a holistic way, some forms of the punishment that can be meted out to SRPs, they include being given more duties. So this is like if it is you are saying you are going to import these Regulations and it is going to govern them just as police officers, what is going to be meted out to them according to the Act, is that they will be given more duties, they will have to do extra parades and drills. So this is the

offences. Yes, I see my friend.

Mr. Al-Rawi: Thank you. Thank you most sincerely, hon. Member, for your precious time. I had indicated that we intended some amendments specifically to this clause. We intend to narrow it right down to just two sections of the Regulations with respect to serious police misconduct and none of the other aspects. But I thank you for your contribution because without what I have just said, it would be along the lines that you are saying.

Mr. D. Rambally: And I want to thank the hon. Attorney General for that intervention. Hon. AG, what I would say is that please take on board and I suspect it is already being taken on board, that you are dealing with an era here where you are still talking about \$150 fine, et cetera, et cetera. So, Madam Speaker, I want thank the hon. Attorney General for that intervention. But this is what we are saying and I want to move, hon. Attorney General, and, Madam Speaker, to this matter of serious police misconduct because it has been touched upon by my colleagues on this side. And that yes, we can find in the PCA what is defined as “serious police misconduct” which:

“...means the commission of a disciplinary offence under the Police Service Regulations...”

And, Madam Speaker, this is the emphasis I want place in the definition itself:

“...which the Authority considers to be so serious...”

So it is:

“...which the Authority considers to be so serious as to bring the police service into disrepute;”

So, Madam Speaker, “serious police misconduct” is therefore defined when we take it down as we say to the brass or to the real brass tacks, is therefore defined by the Authority itself. And I want to say I know speakers on this side

mentioned it, I will just conclude by saying this is a very subjective and it can potentially be an arbitrary standard that is applied when you are making that finding of serious misconduct, “serious police misconduct”.

So, Madam Speaker, and this can lead to questions of principle of legality, which by extension as well we are talking about principle of certainty when we are dealing with application of laws. So Madam Speaker, I want say that that is something that for the definition purposes, we ought to have something which is more thorough, something that is more comprehensive in terms of a definition for what is “serious police misconduct”.

Now, Madam Speaker, unfortunately we are not dealing under this Bill, strictly speaking, with the breach of separation of powers, but I heard one of my colleagues on the other side make mention of separation of powers. And that is something quite frankly, this Bill, if we are serious and we want to talk about there exists separation of powers, Madam Speaker, I will take this opportunity to point out through you, Madam Speaker, to the hon. Attorney General and to the Minister of National Security, that at section 6 of this Special Reserve Police Act, Madam Speaker, it is indicated in no uncertain terms that the SRP officers are under the general command of the Commissioner of Police. But what it also says at section 6 is that under the command of the Commissioner of Police who is in turn:

“6. Subject to the general order...of the Minister,”

So in as much as I have heard arguments being mounted here today about separation of powers, that is something that we have to look at as well because in this regard how can you say for example, the SRP is being inducted to conduct a police investigation or to assist in the investigation, say in relation to a police matter, Madam Speaker, when the Minister has some kind of discretion to somehow oversee or to give general instructions.

So, Madam Speaker, I say that that is something to be ventilated, but in as much as we have seen separation of powers, this can be deemed to be a breach of the separation of powers. So I put that on the table for my colleagues to consider as well.

Now, Madam Speaker, qualifications of an SRP, we have not heard anything about that in terms of this Bill, but just about anybody can be taken off the streets to be utilized in the performance of SRP duties. And this has to be somehow compared with the qualifications of police officers. And why do I raise this, Madam Speaker, it is because if you are serious about—and the Attorney General saying—this “visceral crime scenario” or “perennial problem of crime”, that you really want to usher in something through the backdoor. You are talking about regulations but we need to have on par or equivalent duties. Let them be on the similar standard as police officers and therefore we can import these Regulations in a proper way.

Now, if we are serious about tackling crime, Madam Speaker, and we should really deal with this and I have said holistically, and not target one word at a time, and a provision here, and a provision there, and we are really in effect by virtue of this Bill treating with archaic and possibly irrelevant and unjust provisions. And that is something that—this is what this Bill is about, we need to go further please, Madam Speaker.

And when we look at the provisions that they are referring to, seeking to insert after section 13 a new section 13A and, Madam Speaker, I will say very quickly, you are talking about a period of time of no more than:

“...three months...immediately following the death, resignation, or revocation of appointment of the Director or Deputy Director.”

I refer to this in passing, Madam Speaker, because what it says here, and I

understand the hon. Attorney General when he was piloting the Bill to be saying, that you want to be able—the doctrine of necessity might apply—but you want to be able to have a Director be appointed within a particular period of time.

But when we look at it, three months may very well be an unacceptable, Madam Speaker, wide time gap. And why do I say that? Because it does not really allow the remaining Director any downtime. So if it is you want, you know, that person may have emergency leave, we live in the real world, Madam Speaker, you may have resignation, you may have some kind of revocation, death, any of these circumstances and therefore, if we are going to talk about a replacement, we should really look at not paying due regard to bureaucracy or red tape, we should rather know that we have to challenge that head on and this three months may very well be something that we should bring it down, Madam Speaker.

Madam Speaker, the next section 44A, a new section 44A which will provide that:

“..the Police Complaints Authority makes a recommendation...”

Now, Madam Speaker, this is something that you are saying that:

The PCA—“...makes a recommendation upon the conclusion of an investigation...”

Madam Speaker, what I want to say in respect of that, is that we understand what may be implied by virtue of the introduction of this section. But I do not think we must leave things for implication when we are dealing with something as important as disciplining officers.

And therefore, what I would suggest, Madam Speaker, is that the gap which we see opening up between the recommendations of the PCA and the written decision of the Commissioner of Police, or the Assistant Commissioner of Police, we need to close in that gap. And, Madam Speaker, what I would say is that the

gap can be reduced simply with a scenario. If you consider the scenarios of the PCA makes a recommendation after an investigation, and the other scenario, Madam Speaker, is quite separately you may have the Commissioner of Police or you may have the Acting Commissioner of Police, he is writing to the PCA to let them know of proposed action or maybe recent action that has been taken, and what happens in these scenarios, Madam Speaker, what you want is you want to have something that compels the Commissioner or the Acting Commissioner to read and consider the report. So, if I may say, respectfully, that is what is missing in this Bill.

So, it is not a matter of implying this, it should be very clear so nowhere does it say that any authority or any office holder is mandated to at least consider the recommendations and they must show that they have considered those recommendations. And we have had recent public law matters, please, Madam Speaker, judicial review, where officer holders, public law office holders have been asked to reconsider and it is because they simply have not shown that they considered certain reports, and therefore the courts had to ask that they reconsider.

So this law should be unambiguous please, Madam Speaker. And I am saying that we can frame that particular proposed clause that we must consider the recommendation and would then be required to provide a written decision with reasons or a written update.

And Madam Speaker, when we talk about the Police Complaints Authority and any action which is taken or is proposed to be taken, we must include something which says, “which must address those specific recommendations of the PCA”—of the Police Complaints Authority.

4.15 p.m.

So, Madam Speaker, there is a lot more that I can say in terms of the

definitions, when you look at Police Service Regulations, what they say is considered to be uncivil, serious police misconduct. When you look at those Regulations, Madam Speaker—I know the time is about to close—the point to be made is that we need to address all of these things holistically and make sure that there is not any great room for subjectivity, otherwise we can be dealing with these things in a sort of arbitrary manner.

Madam Speaker, when we talk about uncivil or serious police misconduct, we must be very careful. And this is something that I want to echo from our citizenry, what is considered to be uncivil or you know police misconduct, is it that you have police blaring sirens while the rest of the citizenry have to remain in traffic and breaking red lights and all of these things. I say that because this is a complaint that we have. What would you consider such conduct, when we see that taking place every day on the road and therefore, we should be very clear about what these officers—they will know what they have to face and it goes back to the principle of legal certainty. The population would know what even they can complain about, what is considered acceptable and what is to be reported to the Police Complaints Authority.

Madam Speaker, I want to say that we would support this proposed Bill but we would ask the hon. Attorney General and the Government to consider when they are bringing the laws, yes, we are talking about advocacy and telling the population this, we also join in that and we have been saying that for some time now but what we must talk about is, talk about bringing holistic, not piecemeal but holistic packages of legislation that we can consider everything in the round and know that we are making an impact in crime fighting and in other areas of good governance please, Madam Speaker.

Madam Speaker, with those few words I would close and I want to thank my

colleagues on this side as I endorse what has been said before me. Thank you, Madam Speaker. [*Desk thumping*]

Madam Speaker: Member for Laventille West. [*Desk thumping*]

The Minister of Youth Development and National Service (Hon. Fitzgerald Hinds): Thank you, [*Desk thumping*] thank you, Madam Speaker. Madam Speaker, I am very pleased to join this debate on a matter that I have had the opportunity to debate in, in previous incarnations in this honourable House.

Let me begin by addressing two points raised by the last speaker, the Member for Chaguanas West, he described the amendment that is before us in relation to the Special Reserve Police Act, as the final nail in the coffin of the SRPs. I find that trifling and frivolous and embarrassing even. I want to say to the Member for Chaguanas, as a former police officer myself, who worked alongside many special reserve policemen over the many years, we have seen outstanding police officers who began their careers and in some cases continued as Special Reserve Police officers. As David Rudder say:

Not one name will I call because to name a few will make the others feel small.

But I can tell you, Madam Speaker, they stood head and shoulder with their regular counterparts performing outstandingly over the years.

When a Special Reserve Police officer operates in the theater, in the society, in fact by the law he has the same powers as a regular police officer under law, including the ultimate power, the power of arrest. He is trained, he can take the arrested person to court upon complaint, he is trained to give evidence and can enjoy if I can use that term a conviction like any of his regular counterparts. They can work in the charge room in the stations, guard duty and whatever else. They have the same powers, the difference is their terms and conditions. The initial incarnation of

the SRP was supposed to be a four hour per week or weekend kind of activity, public spirited human beings, giving service to Trinidad and Tobago in that way. As the demands of the society grew, it transpired that they began to be asked to do far more. And then we came to the position where you had full-time SRPs in the atmosphere.

So the only difference really is their terms or are their terms and conditions of service. They coming in knowing that they coming, not having qualified as regular police officers but as Special Reserve Police, so their entry requirements are different. Their training requirements initially are different though they garner a lot of it by way of experience going forward. One of the ways that the Police Service, the administrators of the police service dealt with this issue over time, when they found sufficiently experienced and long serving as SRPs is through the business of absorption, where they accept them into the regular service with reduced levels of training than would for an ordinary starter in the business of policing. So I do not see this alarum and you know, embarrassment of death knell and nail in the coffin. That is typical UNC hyperbole.

The other point is, he made the point that the Member for Port of Spain North/St. Ann's West, as a Minister of National Security, because he has some kind of relationship to what the police does, the regular police and more specifically, the Special Reserve Police, that something was wrong about that. I just want to remind the Member for Chaguanas West that section 75 of the Constitution of the Republic of Trinidad and Tobago permits the Cabinet and Members of the Cabinet, Ministers of Government, expressly to exercise general direction and control in their Ministries. And whatever general direction and control that is exercised by a Minister, in this case the Minister of National Security, does not go to the level of the operational decisions that the

Commissioner and the police must make. So again, that is typical UNC exaggeration and hyperbole which we could live without.

Madam Speaker, let me say that I find my friends on the other side pretentious, because really—

Dr. Moonilal: 48(4) please, ought not to be referring to Members as pretentious in that way.

Hon. F. Hinds: I find them pretentious.

Madam Speaker: Yes, okay, but as I say we are trying to develop a little change culture in here, so I will ask you to withdraw, with your extensive vocabulary I am sure you can find a replacement.

Hon. F. Hinds: “Janus-like”, if I may use a Greek mythological creature, “Janus-like” and as you know, Madam Speaker, January gets its name from that mythical Greek character with two faces—seeing off the old year and seeing in the new. Madam Speaker, I get the impression from my colleagues on the other side, based on the simple fact of refusing to allow the Commissioner of Police his wish to get certain pieces of legislation to fight crime and keep us safe from the criminals, I find the—

Mr. Lee: Madam Speaker 48(1)

Hon. F. Hinds:—UNC in that has demonstrated, Madam Speaker—

Mr. Lee: Due respect, 48(1), Madam Speaker, this is not about the Commissioner of Police.

Hon. F. Hinds: I am not talking about the Commissioner.

Madam Speaker: Please proceed.

Hon. F. Hinds: I find from that simple behaviour consistently over the years, that they really do not support or like the police. In fact, from their conduct over the time, it appears as though they are afraid of the police.

Today's amendments, Madam Speaker, are very simple. I do not think it is necessary for me to rehearse them but in short, one is an amendment to the SRP Act, as the Attorney General made pellucidly clear in his elucidation of the measure and that is, in relation to the definition of serious police misconduct, which brings me again to the Member for Chaguanas West, who told us that he wants a more specific definition of that term. But the definition of serious police misconduct is found in the parent Act, in the Police Complaints Authority Act which the Member ought to have and to know, in preparation for this debate at any rate. And that definition just for the benefit of the citizenry of this country, it is right here in the PCA Act and "serious police misconduct" means and I am reading the Law:

"...the commission of a disciplinary offence under the Police Service Regulations...which the Authority considers"—which the Police Complaints Authority by the way considers—"to be so serious as to bring the Police Service into disrepute;"

So it is defined, it is written there in black and white. And then the Member for Chaguanas West towards the end of his contribution, raised the most trifling and frivolous and embarrassing point again, worse than the first to tell us about police driving around with sirens and wondering if that is misconduct. Well that is precisely what this definition is all about. Because the Police Complaints Authority if a complaint is made about that, will not find that to be to be serious police misconduct, which will attract his attention that could be dealt with in the disciplinary elements of the Police Service in the normal kind of a way and that is why I tell you I am embarrassed.

I came to this House in 1995 and the thing is to that extent, deteriorating, debilitating, disconcerting, put it more simply, Madam Speaker, typically UNC.

Madam Speaker, another amendment without elucidation is an amendment intended to amend section 4 of the PCA Act, by including the words “Assistant Commissioner of Municipal Police”, for those of us who participated in the debate that established that, we now have the municipal police, a very powerful and useful tool in dealing with crime in this country, the Government having announced that we wanted to established another 1,400 of them to deal with local issues in the various municipalities and the officer in charge of that unit is the Assistant Commissioner of Municipal Police.

When this PCA Act was passed, originally, that formulation was not in place, that body, those municipal officers were not in place. And therefore, it now being in place. The Act is being amended in section 4 to accommodate that and at the same time to move the word “force” and to replace it with “service” so what was Municipal Police Force is now properly written Municipal Police Service. And to amend the definition of “serious police misconduct”, to include the words “Municipal Police Service Regulations”. All of this, Madam Speaker, bringing the municipal police legally within the purview of the context of “serious police misconduct” which will then allow the PCA to treat with it, it having decided that it was so serious, as in accordance with the definition as I have read it a moment ago.

This is so banal, so simple but there is a devious element in the atmosphere, looking around for things, scratching around like fowl, looking for faults, to give expression to a devious element of non-support, Madam Speaker, I called no names.

Madam Speaker: [*Inaudible*]

Hon. F. Hinds: I am obliged.

Madam Speaker: Thank you, withdraw and find another word.

Hon. F. Hinds: I will proceed, “ah throw meh corn ah didn't call no fowl”.

Madam Speaker: I would like you to withdraw that, find another word.

Hon. F. Hinds: Which one, Madam Speaker?

Madam Speaker: I am not going to repeat the word.

Hon. F. Hinds: Fowl? I withdraw the word “fowl”.

Madam Speaker: I am sure you are quite aware.

Hon. F. Hinds: I withdraw the word “fowl”. Chicken.

Madam Speaker: That is not the word. That is not the word.

Hon. F. Hinds: I know the word.

Madam Speaker: That is not the word, okay, so please.

Hon. F. Hinds: Devious, Madam Speaker?

Madam Speaker: Please withdraw the word.

Hon. F. Hinds: I withdraw the word “devious”.

Madam Speaker: Do not repeat the word.

Hon. F. Hinds: I am obliged.

Madam Speaker: Withdraw the word and find another word.

Hon. F. Hinds: I am obliged.

Madam Speaker: Thank you very much.

Hon. F. Hinds: I would chance the word shite and like. Madam Speaker, may I proceed. One of the other amendments, Madam Speaker, is the amendment in clause 3(b) to amend section 7 of the Police Complaints Authority Act to wit, to recognize the Director or the Deputy Director, who must have 10 years' experience as an attorney-at-law and of course to be selected from the Commonwealth. The law had an era in the word appointed and it is now corrected.

Madam Speaker, the reason why I went through those again is simply to demonstrate that the amendments we come with today, do not interfere with any

fundamental elements of the intention of and the expression of the Police Complaints Authority Act. All of the amendments the Attorney General piloted here today and we support wholeheartedly on this side, are ordinary and simple amendments that are consistent with the intention of the legislation, the parent legislation of the PCA, the PCA Act, as it then existed as it now can exist, it is again so embarrassingly simple. And it was painful to sit and listen to my colleagues dilly-dallying on the other side, especially the Member for Naparima.

Madam Speaker, another point that came and the Minister of National Security, the Member for Port of Spain North/St. Ann's West deliberated very potently upon it, is the question of the independence of the different arms of the State and he told us quite properly, that you will find in the, under the rubric, powers and functions of the Authority, meaning the Police Complaints Authority in section 21 of the existing Act, everyone in this House has access to that, so I need not elaborate but in that section 21, subsection (1)(a), (b), (c), (d), (e), (f), (g) and (h) is outlined in clear terms, Madam Speaker, what the powers and function of the Police Complaints Authority are. And then in section 22, particularly subsection (2) of the very Police Complaints Authority Act, it highlights further some of the powers of that. One of them in (a) for an example, 22(2)(a), talks about:

“...the”—Police Complaints—“Authority shall...have the power to require—

any person to produce, within a specified time, all books, records, accounts, reports, data, stored electronically or otherwise, or any other documents relating to the functions of any public body or authority;”

A very wide power and the reason why I took time to quote that and to highlight section 21 and this section 22 is to demonstrate what any reasonable person could

read and see, there are tremendous powers vested as it stands today in the authority of the Police Complaints Authority—tremendous wide powers.

4.35 p.m.

But I heard the Member for Naparima, who troubled my spirit and disturbed my intellect, arguing here today, that the PCA should have prosecutorial powers and it took the Member for Port of Spain South, my friend, the learned Keith Scotland, to amply demonstrate with simplicity, ease and simplicity, Madam Speaker, to demonstrate to the Member for Naparima, who, by way of an excuse on his part—I will never be too sanguine, I will never be too empathic with him because he troubles my spirit—he told us last week, off the record, Madam Speaker, that he was born in a cemetery. He told us that. [*Desk thumping*] So he troubles my spirit for that and other reasons.

Dr. Moonilal: Madam Speaker, Standing Order 48(1). Clearly, the Member has ran out of points.

Madam Speaker: Please continue.

Hon. F. Hinds: Much obliged. Madam Speaker, he tells us that the PCA should have prosecutorial authority. And, as I was saying, before another one who troubles me deeply, the Member for Oropouche—the Member for Port of Spain South, pointed out that in the case of Hinds, the Privy Council denounced in its entirety, any attempts by an Executive to establish anything looking like having police or prosecutorial authority. That happened in 1976. And long before that, Lord Diplock, in the case of the AG—*Whiteman v the AG* had pronounced upon the limits of police powers abhorring, rejecting the suggestion made by the hapless Member for Naparima here today, which was tantamount to a waste of our time.

So, Madam Speaker, in short, even section 26 of this Police Complaints Authority Act, outlined very elaborate procedures of investigative measures on the

part of the PCA. Section 26, for example, says:

“The Authority may conduct an investigation on its own initiative or on the basis of a complaint made by a member of the public, a police officer, a public body or authority, or the appropriate unit or a disciplinary tribunal of the Police Service.”

[MR. DEPUTY SPEAKER *in the Chair*]

And sections 27, 28, they all give elaborate—so in addition to the powers and functions, Mr. Deputy Speaker, the investigative scope and the breadth of the scope—

Mr. Deputy Speaker: Hon. Member, your time has expired. [*Desk thumping*] I now recognize the Member Oropouche East. [*Desk thumping*]

Dr. Roodal Moonilal (*Oropouche East*): Thank you very much, Mr. Deputy Speaker.

Mr. Deputy Speaker: Member, you have 20 minutes.

Dr. R. Moonilal: Excuse me?

Mr. Deputy Speaker: Twenty minutes.

Dr. R. Moonilal: Yes, thank you. Thank you very much, Mr. Deputy Speaker. Mr. Deputy Speaker, like the speaker that spoke before me, like him, I was not prepared to speak today [*Desk thumping and laughter*] but I was troubled, I was deeply troubled by the utterances of the Member for Laventille West, who disturbed, on this side, where all of us have intellect, disturbed our thought processes. Clearly, the Member for Laventille West, was induced and forced to speak, and I think it was unfair for the Acting Leader of Government Business to put the Member through such a burden and turmoil because, Mr. Deputy Speaker, there are so few points or issues raised. I am really looking, but I want to comment on some other matters really, not Laventille West, because I could not find

anything there. Mr. Deputy Speaker, just to say for the record, that those of us on this side and, particularly, those of us who have been fortunate enough and blessed to serve in Government, we have a tremendous record of service to this country [*Desk thumping*] and service to the people. And not once during the five-year term of 2010 to 2015 did the Trinidad and Tobago Police Service ever complain about a lack of resources, funding [*Desk thumping*] and inability to pay their debts and we did have challenges, I assure you.

Mr. Deputy Speaker, the Member also gave the impression, as other speakers, that this measure before us will somehow lead us to the Promised Land that all the backlog and all the problems will be solved and so on. I want to begin by saying, I am in principle in agreement with any approach and any regime that will strengthen the work of the Police Complaints Authority, and will strengthen related institutions that can deal effectively and in a timely manner with the issue of police misconduct and corruption and so on in the police service.

You see, Mr. Deputy Speaker, we can easily find comparative and global data to suggest, forcefully, that there is a relationship where in societies, where they have been successful in cleaning up the police service. that is related, it is directly proportional, I believe, to the ability to deal with crime. So throughout the world, you will find a relationship between cleaning up the police service and dealing successfully with crime. Countries that have managed crime have all managed to deal with the police service. So it is really a good track to bring the Police Complaints Authority under the spotlight to strengthen their work and so on.

But, Mr. Deputy Speaker, as colleagues before me said, the Police Complaints Authority themselves, when they give their reports, they complain themselves—the Police Complaints Authority complained themselves that they are moving matters to another desk, the DPP Office, and it appears that there is some

static and there is some, you know, problem there with dealing with the matters that they are referring to.

But, Mr. Deputy Speaker, I am trying to find some other issues raised. Of course, the Minister of National Security gave us his account of the good work he is doing and so on, and that includes receiving engines from the United States Embassy. Mr. Deputy Speaker, I want to raise one issue as a main issue here today, and to ask the Attorney General to consider the issue.

Now, I speak also from the perspective of having some experience in Government. I also had the good fortune to serve on the National Security Council for, I think, five successive years. Now there are practices and there are conventions that emerge over time in law enforcement, but it is generally not rooted in statute. It is not rooted in the law books. You cannot go to a law book and find certain practices which have emerged, and some of those practices are good practices.

Now, I will give an example and make the point. Unless the Attorney General can correct me, the Commissioner of Police reports, attends regularly meetings of a subcommittee of Cabinet called the National Security Council. That is a subcommittee of Cabinet chaired by the Prime Minister, and the Commissioner of Police, the head of the Defence Force, the head of immigration and so on, would regularly attend those meetings and report. Now, unless I am mistaken, Attorney General, I do not think that is rooted in any law that the Commissioner of Police is under statutory obligation to report that way to a committee, but the Commissioner does do that and it happened throughout, you know. It happens for decades. That has happened since independence, since Eric Williams.

Mr. Deputy Speaker, the Constitution provides, and I want to read that now that:

“The Commissioner of Police”

—123A, and this is pursuant to the fundamental amendments made to the Constitution in 2006, which emerged from a bipartisan meeting and coming together of the Government and the Opposition. It says:

“The Commissioner of Police...”

And let me get quickly to connect this to the Bill, because I see the Member for St. Joseph is looking at me with a hawk’s eye. So:

“...the Commissioner of Police shall have the complete power to manage the Police Service and is required to ensure that the human, financial and material resources...are used”—properly and so on.

So the Constitution gives the Commissioner of Police the power to manage completely, to completely—they say here to give:

“...complete power to manage...”

Now, the Minister of National Security pointed out earlier, the Police Complaints Authority, where at section 19 it says and I quote:

“The Authority is not subject to the direction or control of any other person in the performance of its functions under section 21...”

So, you have now, a police service that is completely independent where the Commissioner of Police has the complete power to manage and you have a PCA that is independent of any other institution and person. But, today, we have a Bill that speaks in amendment 44A, Member for St. Joseph:

“The Commissioner or the Assistant Commissioner, as the case may be...”

I am asking, what do you mean by “as the case may be”?

“...shall, within three months of the Authority making a recommendation in accordance...provide”—an update, written decision.

So the Commissioner and/or Assistant Commissioner is now, in a way, subjected to Police Complaints Authority because:

“The Commissioner or the Assistant Commissioner...within three months of the Authority making a recommendation in accordance with section 44(2), provide the Authority with—

- (a) a written decision, with reasons, on any action which has been taken or is proposed to be taken or not taken, in respect of a recommendation; or
- (b) a written update on the progress of a matter which is the subject of a recommendation.”

So the fundamental issue is that, is the Trinidad and Tobago Police Service, as of this day, subject in law to the Police Complaints Authority? It appears that they are, because when this is passed, a Commissioner of Police or the Assistant Commissioner, is under a statutory duty to respond to an independent authority called the Police Complaints Authority. Now, does this undermine, in any way, the independence of the police service itself and the complete power of the Commissioner of Police? It is an interesting question that we just put on the table. It is not a question that we want to spend too much time on. The Attorney General can go further with that. Because it seems to me that over the years, conventions have emerged and we understand the problem.

We understand what they are trying to do. We understand the bee in the bonnet, because the Police Complaints Authority has complained to the Joint Select Committee on National Security, in particular, that they make recommendations in writing to the TTPS and time goes by and nothing is heard, apparently nothing is done. So we understand the objective. You want to bring accountability, but you are bringing accountability where you can be eroding the

independence of an institution, and that is the issue.

Now, is there another structure to do this? As it is, the Constitution provides that the Commissioner of Police provide timely, I think, it is three months or so, reports to the Police Service Commission. The only authority that the Commissioner of Police, in law, provides and reports to is the Police Service Commission. Today, as of this day, the 5th of March, 2021, the Commissioner of Police is now providing in writing reports to the Police Complaints Authority. That is an interesting question as to whether that undermines a constitutional independence of the TTPS. Because I know of no law. And I ask the Attorney General to correct me if I am wrong and correct us, of course, if any other law provides in writing, under statute, a Commissioner of Police providing reports and written reports and timely reports to any other institution, be it an independent institution or not? This is an interesting question that I found and I raise here.

There is a related issue here as well. There is a related issue. There is a creature called the Adjunct Commissioner created over time, and we now have reference to the Assistant Commissioner. So it is and/or it is the Assistant Commissioner of Police. Now, the structure of the police service has always been hierarchical. It has always been you report to the top—the constable, the sergeant, the inspector, superintendent, et cetera as you go up—and the Commissioner of Police sits at the very top and you all go to him.

Now, of course, in the practice, over the years, specific units in the Trinidad and Tobago Police Service will always be in touch with the DPP. They will be in touch with the Children's Authority. They will be in touch with other institutions, because they work together and over time conventions and practice emerged, but their boss in that sense is the Commissioner of Police that has the complete power to manage the resource. Today, if this is passed, the Assistant Commissioner is in

an interesting position where he or she now reports to an institution outside of the police service. Now, can this Assistant Commissioner tell the Commissioner, “Look here, you have summoned me”—I am just giving you some practical realities—“for a meeting to discuss terrorism or you have summoned me to a meeting to discuss traffic management in a critical area of the highway and so on, but I cannot make it today, because I am busy doing a report for the Police Complaints Authority. I have some commitments. The Police Complaints Authority has responded to some of my reports, they want more information. Could you please excuse me from meetings for this week?” You all understand. You understand the issue. Because normally reports go to the Commissioner and the Commissioner will go to the National Security Council or wherever and present on behalf.

This is an interesting point because the Assistant Commissioner of Police, now Assistant Commissioner, who may have some responsibility here, can do away, move away from the Commissioner and say: “I am reporting to the Police Complaints Authority.” And when you give a report, it is not a sharing of mail that way. There are follow-up issues, there are questions. There may be a complete new set of meetings over these reports. So it is something I saw and I wanted to raise, because this can also have certain operational problems. But having said that, I understand more than many people, the need for accountability and the need for matters to go to the police and the police to account. Now, admittedly, that is the objective, accountability and we share the objective. We agree with that, but something else can happen here.

Again, unless I am misreading this section, what happens hypothetically if the Commissioner or Assistant Commissioner, notwithstanding the points I raised earlier, within three months—according to the law here, the Bill—of the authority

make recommendations, you have to give your written decision or give an update. Okay? In the real world, in three months with investigations in the Trinidad and Tobago Police Service, in the real world, really? I mean it is hoping for miracles to think that something will be completed the three months. The police can say, pursuant to section 44A of this amendment, here is the written report. The matter is actively engaging our attention. That is a report. Now, you are obliged to give one report for three months or a written update on the progress of the matter. What happens for the next three months and the next three months and the next three months and the next three months? What happens? Because the law does not provide to give continuous, regular—if a matter continues—to give biannual, to give yearly reports.

So in reality, when the police is investigating a matter, clearly, they cannot give details of the investigation. They cannot say we have 22 witness statements, we are going to interview here, we are going to look for a search warrant there and we are going to look for a production order here. You cannot give that. So the police will give a report that says it is actively being investigated by this unit or that unit, and then they are under no other obligation to give a report for the thing. So you start back.

So, in a sense, what I am suggesting is even the way it is phrased and the way it is structured here, it defeats the purpose of accountability. All it does is tell the police, look here, in three months the TTPS may not even appoint an investigating officer, but in three months they have to tell you what they are doing and then the matter—so my question, Attorney General is, does the matter end there after that first three months of giving your written update or written decision? Because if it ends there, according to this structure, then that is it. Whereas if you put in an A, B or a C and say: Subject to A and B, the Police Commissioner or

Assistant should give regular reports until the matter is—I do not know—resolved or the matter is closed. I raise that. Now that does not take away from my earlier argument that the Commissioner and the Assistant Commissioner are placed in a difficult position in that they are now reporting to an institution outside of the Police Service Commission, and that to me is a cause for deep concern, because it speaks to undermining, in some way, the independence of the Trinidad and Tobago Police Service in this matter.

It is a pity that a structure that involves the Police Service Commission could not have been crafted to allow for the same outcome that you seek, but through an established channel of some kind. Because I know also there is some collaboration between the Police Complaints Authority and the Police Service Commission as well. Mr. Deputy Speaker—

Mr. Deputy Speaker: Member, you have two more minutes.

Dr. R. Moonilal: Oh. Thank you very much. Mr. Deputy Speaker, I will not need the other two minutes. Thank you very much. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Arima. [*Desk thumping*]

The Minister of Housing and Urban Development (Hon. Penelope Beckles): Thank you very much, Mr. Deputy Speaker, and I am here to make a very brief contribution. Mr. Deputy Speaker, this Bill seeks to expand and widen the oversight powers of the Police Complaints Authority to include the municipal police and improve and expand the operations of the Police Complaints Authority and the relationship with the Special Reserve Police.

Now, my colleague, the last speaker, the hon. Member of Parliament for Oropouche East, in his contribution, referred to the fact that—words to the effect that there may be no real obligation on the Commissioner to give a proper report. And the hon. Member also suggested that the police might prepare and submit a

report which, in essence, is of no value and that they could, based on the existence of the legislation, that this could be an exercise almost in perpetuity. But, at the same time, I was happy to hear him say that the Bill is all about accountability. Because, Mr. Deputy Speaker, what would have been helpful is, the Opposition themselves submitting some form of an amendment if it is they are serious about the many concerns and criticisms that they have raised in the Bill.

Now, for example, the Opposition has said that we should have spent more time talking about resourcing the police service and the Judiciary, and we should have dealt with some wider issues about the SRP and the municipal police and the Bill should have dealt, in some greater length, with the definition of serious police misconduct and there was even a suggestion that the discussion today is a waste of time. Mr. Deputy Speaker, the hon. Attorney General, was at pains and gave detailed explanation of every single clause in the amendment today. And I want to make it clear that this Bill actually has absolutely nothing to do with resourcing the police service or the Judiciary. This Bill is giving the Police Complaints Authority, as I said, greater authority and power over the 5,230-odd SRPs and municipal police. The Opposition is saying, on the one hand, that they are supporting the Bill but, at the same time, their criticisms, in my humble view, have not been sufficient to change the fact that the amendments being proposed today are absolutely necessary. Now, one is not going to deny that there always will be important issues to discuss as it relates to the improvement of the police service and the Judiciary, but this is not what this is about today. Because, I mean, we have to ask ourselves, the simple question, these 5,230-odd SRPs and municipal officers, should they not be captured by this Bill? Should they not be held accountable for any serious misconduct that would come about in the exercise of their duty? That is what this is about. And what the Government is saying is that we have recognized, based on

complaints, based on research, that these categories of officers—the SRPs and the municipal police—that it is absolutely necessary for this piece of legislation to capture the SRP and the Municipal Police Service.

Now, the Member for Chaguanas, in my humble view, used this debate to actually suggest that what the Government is doing—and he referred the SRP as actually—I do not recall the exact word—but what he was saying is that this Bill could cause them to believe that we are putting them in a position where we are either denigrating or depreciating the value of the SRP and the municipal service by incorporating them in this Bill, and giving the responsibility of the Police Complaints Authority oversight over the Special Reserve Police and the municipal police.

Mr. Deputy Speaker, I want to say that this Bill has absolutely nothing to do with denigrating or depreciating or devaluing the Municipal Police Service and/or the Special Reserve Police. This is simply, as I said, in the beginning, giving the authority an oversight power of the complaints authority to include the municipal police and to improve and expand the operations of the Police Complaints Authority and its relationship with the Special Reserve Police.

So, Mr. Deputy Speaker, I am extremely pleased to hear that the Government is going to support the Bill, and I would just like maybe some further explanation as to why it is that the Opposition will want to suggest that this Bill is going to put the final nail in the coffin of the municipal police and the SRP. I would really like to have an explanation for that, because listening to their contributions, some impression could really be given that the Government is, in some way, in some sort of clandestine effort to undervalue the SRP as well as the municipal police.

Now, Mr. Deputy Speaker, one of the important things of this legislation is

that it is saying in a very simple way that the Commissioner of Police can now gather evidence and submit it to the Police Complaints Authority. Now, I am at pains to understand really, what really is so difficult and complex about this piece of legislation. I have looked at it, I have listened to the Attorney General and I have no doubt that this is absolutely necessary.

I totally support the amendment and I believe that, notwithstanding the criticisms that have been raised by the Opposition, that is, to suggest either it is a waste of time, either to suggest that it has not gone far enough in addressing the concerns of the SRP—the Member for Naparima spoke about issues relating to outstanding salaries and a number of other issues that have been there for a long time, but this is not what this Bill is addressing. There may, of course, be another opportunity when some of those other issues could be addressed but, I think, it is important for us to remain where the Bill wants us to go, and that is to deal strictly with incorporating the SRP and the municipal police into this Bill so that there is greater oversight by the Police Complaints Authority over any sort of serious misconduct that could take place during their activities as SRPs and/or as municipal police.

5.05 p.m.

So, Mr. Deputy Speaker, I want to join all my previous colleagues in simply saying I support the amendment. I was extremely pleased with the contribution of the Member of Parliament for Port of Spain South because as he said, [*Desk thumping*] this Bill is very timely. I do not think that any Member of Parliament sitting here today could comfortably say that in the public domain there has not been times when the public has expressed its concern about certain incidents involving the death of citizens of Trinidad and Tobago.

The Member of Parliament for Port of Spain South gave his own experience

about situations in the Beetham and in Sea Lots. As the Member of Parliament for Arima, the recent incident that took place in relation to the death of Andrea Bharatt and the death of two persons that were in custody has caused several members of the public to raise the issue of the importance of the Police Complaints Authority. And I am sure that every single Member of Parliament here today from time to time you would have had constituents come to you and raise concerns, whether it be about the police service, members of the police service; whether it would be about members of municipal service or whether it be members of the SRP.

So let us be clear that this is all this Bill is doing today and I hope at the end of the day, notwithstanding some of the criticisms that have been levelled by the Opposition, that we will give full support over what this Bill seeks to do, which is to expand and widen the oversight of powers of the Police Complaints Authority to include the municipal police and to improve and expand operations of the Police Complaints Authority and its relationship with the Special Reserve Officers. Thank you very much, Mr. Deputy Speaker. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the Member for Tabaquite. [*Desk thumping*]

Ms. Anita Haynes (Tabaquite): Thank you, Mr. Deputy Speaker, for allowing me to make a brief intervention in this debate today as we seek to include the Special Reserve Police and the municipal police under the purview and oversight role of the Police Complaints Authority. And, Mr. Deputy Speaker, I rise to contribute in this debate because it is clear from the contribution that we just heard from the Member for Arima, the hon. Minister of Housing and Urban Development, that our concerns and critiques that I believe that were so well articulated on our side by my colleagues seemed to have missed the boat on the other side. So they keep saying that we have unfair criticisms and unfair critiques, but when I listened to my colleagues and I listened intently as well to the Member for Port of Spain South,

who in his contribution raised that essentially this Bill is a balancing act and because the population is seeking for more power to the TTPS so that we can get greater justice, swift justice, that we as parliamentarians, Members of the Legislature should balance that by improving and increasing the oversight function of the Police Complaints Authority.

So in that regard I believe that they understood exactly what we were saying on this side, because if our piece of legislation here today is to fix one end of the scale, saying, “Let us increase oversight on the TTPS and increase the oversight function of the Police Complaints Authority”, then you must understand while in addressing this piece of legislation we will say, “But let us simultaneously look at a well-resourced TTPS [*Desk thumping*] and ensure that they are able to the best of their ability, complete their task at hand”. Because both the Member for Port of Spain South, the Member for Port of Spain North/St. Ann’s West raised this issue of it being a balancing act.

So while you discussed one end, the legislation at hand today, we, quite responsibly so, discussed the other end, which is that as we talk about police oversight and why it matters and we talk about taking a closer look at what the Police Complaints Authority does, what they can do, what is under their direct remit and what that means for justice to the citizens of this country, we similarly get to look at—and I think very reasonably so—what it means to be a member of the TTPS, what it means to function as a member of the TTPS and go out and do your duty to the people of this country day in, day out. And I listened to the Member for Laventille West who I assume was joking when he said we appeared to be “anti-police” on this side. Imagine in a debate where we are arguing for a well-resourced TTPS, the Member for Laventille West, the only conclusion that he was able to draw was that we are anti-police. [*Desk thumping*] I mean, you know,

and so stripping all of the rhetoric aside, the Members on this side, the Members of the Opposition absolutely believe in accountability and transparency.

We believe that justice must be served and justice must be timely. We absolutely agree with oversight for TTPS. We agree 100 per cent on an oversight function. We agree on strengthening any oversight function in the interest of the justice for people of Trinidad and Tobago. But in that same vein—in that same vein for that to be done and for it to be done reasonably well there absolutely must be a focus on whether or not the Government in its executive function is equipping the members of the Trinidad and Tobago Police Service in a way that they can do their job to the best of their ability. [*Desk thumping*] And that is a very, very simple argument I think that no one in this room—no one in this room should be able to disagree with.

When we talk about introducing and bringing the SRPs and the municipal police under the role of the Police Complaints Authority, the Member for Barataria/San Juan raised it, I think, perfectly, which is we are adding more persons now to a system to go under an oversight body and the question becomes, “Is that system equipped for the more work that they will be getting now”? And that is an easy question to answer if you are prepared to justify what you are doing here today, which is that, yes; yes, they are in fact equipped because members of the public will make various complaints via the Police Complaints Authority. What is the turnover? How quickly is your complaint dealt with? How do you move from a complaint to some sort of resolution? You have to answer that question in order to justify whether or not what you are bringing before us today will be effective and efficient and serve its purpose. And therefore, if you are not able to answer that, then all you are bringing is just another piece of legislation, something else [*Desk thumping*] on the books that brings no material impact and no material

improvement to the lives of the citizens of this country.

So, as I promised, and unlike the Member for Laventille West, I promised a brief intervention and it was a simple intervention to say that if we are talking about a balancing act, it is absolutely fair to equally talk about the side of the TTPS and to ensure that they are well resourced and well equipped to do the job that they are committed to do for the people of Trinidad and Tobago. I thank you. [*Desk thumping*].

Mr. Deputy Speaker: I recognize the Member for Lopinot/Bon Air West. [*Desk thumping*]

The Minister of Public Utilities (Hon. Marvin Gonzales): Thank you very much, Mr. Deputy Speaker. Indeed, I will be brief but I will also be relevant, Mr. Deputy Speaker. And I want to thank very much my colleagues on the other side for lending their support to this very much important Bill that will seek to strengthen a very much important institution in Trinidad and Tobago which is the Police Complaints Authority. It is refreshing for me personally, Mr. Deputy Speaker, because I think it is my first experience since entering this Parliament, I can see this level of comradery taking place on both sides, both the UNC and the PNM on a very important Bill. Because unfortunately in the past, not too long ago, equally important pieces of legislation were entered and passed in this Parliament and we have to beg and sometimes they have to go kicking and screaming, sometimes with the visceral criticism of members of the public that they have to now come and support critical pieces of legislation that will further the interest of the people of this country. And therefore, I want to thank them very much for coming to this Parliament Chamber today and to giving support to this piece of Bill that seeks to strengthen the operations of the Police Complaints Authority.

Mr. Deputy Speaker, I wish to also disagree or to register my disagreement

with Members of the Opposition that this Bill is a piecemeal intervention to improve the operations of the Police Complaints Authority. The Police Complaints Authority is a piece of law that has been in operation for quite some time and what we are seeking to do, Mr. Deputy Speaker, is to tweak some parts of this law that will seek to expand their powers to investigate police misconduct and police corruption as it relates to the municipal police, as it relates to the Special Reserve Police and other persons who work in support of law enforcement.

Mr. Deputy Speaker, if I am to just go back briefly in the history of Trinidad and Tobago and what we have in our archives as it relates to police misconduct, I wish to remind hon. Members of this House and the national community that the issue of police misconduct is nothing new to this country. As a matter of fact, every single country in this world, every single commonwealth country grapples with the effect of police corruption and police misconduct, and therefore we have as legislators, always to examine the operations of our police service to ensure that at every opportunity the members of this country, the citizens of this country continue to have confidence in the operations of our police service.

If I am to remind the Members of this House that in 1958 we had the Lee committee; in 1964 we had the Darby commission; in 1971, Member for Oropouche East, we had the Bruce committee. I am sure you would be aware of all of that. And I am sure—

Dr. Moonilal: And when was the Moonilal committee?

Hon. M. Gonzales: No, we never had the Moonilal committee.

Dr. Moonilal: Mr. Deputy Speaker, with the greatest respect for my colleague, it hurts me, 48(1), please, because he is still in the 60s; 48(1).

Mr. Deputy Speaker: Overruled.

Hon. M. Gonzales: Thank you very much, Mr. Deputy Speaker.

Mr. Deputy Speaker, and then we had the Scott Drug Report, all pointing to serious corruption within the Trinidad and Tobago Police Service. And then in 2010, the Police Complaints Authority Bill was passed and the purpose of the Police Complaints Authority is to ensure that we had an independent body that was charged with the responsibility to investigate police misconduct and police corruption and other associated matters. And the reason why this was important, Mr. Deputy Speaker, it is because within the police service and before the creation of the Police Complaints Authority we had a body within the police service, police officers themselves investigating themselves. And of course this was not a situation that would have engendered and instilled a sense of confidence in the people of this country and this is what caused the creation of the Police Complaints Authority.

It has been in operation over the years and on several occasions they came and they appeared, as the Member for Oropouche East indicated a short while ago, they came before the Joint Select Committee complaining that there are areas within their governing legislation that needed improvement and they implored upon the Parliament of Trinidad and Tobago to tweak and to make these critical amendments so that they can continue to offer their services, investigate police crime and police misconduct. And several times, Mr. Deputy Speaker, we had the experience recently with police killings and police shootings resulting in protest action, even around this Parliament, in east Port of Spain, all over. And had it not been for the independent powers and the independent institution of the Police Complaints Authority, then heaven would have helped us.

Several times we come complaining, members of the public complained that we as an institution, as a Parliament we are not doing our part. And sometimes I hear Members on the other side complain and they behave in such a way that we

are not doing our part as legislators, but we are not here to manage the Police Complaints Authority; we are not here to manage the Trinidad and Tobago Police Service, we are here to pass laws to assist them so that they can discharge their duties in the best interest of the people of this country. And that is simply what we are doing here today, ensuring that the Police Complaints Authority Act continues to give the Police Complaints Authority the necessary power, the necessary resources so that they can discharge their independent function over the Trinidad and Tobago Police Service.

So I wish to commend the hon. Attorney General for bringing this critical piece of legislation to this House. You see, Mr. Deputy Speaker, law enforcement has evolved over the years and a lot of reliance has been placed on incorporating Special Reserve Police Officers into the operation to support the work of the regular police service. We have also incorporated even customs officers in law enforcement. We have incorporated members of the municipal corporation. The Government has indicated a policy to expand the operations of the municipal corporation to assist law enforcement in the various municipalities around Trinidad and Tobago, and therefore the work and the conduct of these officers would continue to be under close scrutiny. And if the Police Complaints Authority comes to us as a Government indicating that given the direction in which we are going and given the fact that these governing law enforcement agencies, the municipal police officers being governed by the Municipal Police Service Act, the members of the SRPs being governed under the Special Reserve Police Act, and all these various law enforcement agencies being governed under their respective legislation, the Police Complaints Authority is telling you that in order for them and in order for us to have seamless operation with these various pieces of legislation and the Police Complaints Authority, certain amendments ought to be

made so that they can continue to discharge oversight over the operations of law enforcement. And this is simply what we are doing here, ensuring that there is seamless operation between the Police Complaints Authority, the Municipal Police Service Act, the Special Reserve Police Act, as well as the Coroners Act to give the Police Complaints Authority the power now to participate in a coroner's inquest whenever such inquest involves police misconduct.

Therefore, Mr. Deputy Speaker, I think that this Bill is very critical. It is going to strengthen the independent authority of the Police Complaints Authority and we will be far better off as a country, because at the end of the day—at the end of the day, Mr. Deputy Speaker, the people of this country would have confidence that we have an independent body that is charged with the responsibility and the resources to investigate police misconduct. I thank you very much. [*Desk thumping*]

Mr. Deputy Speaker: I recognize the hon. Attorney General. [*Desk thumping*]

The Attorney General and Minister of Legal Affairs (Hon. Faris Al-Rawi): Thank you, Mr. Deputy Speaker. Mr. Deputy Speaker, I thank learned colleagues for their submissions in this House today and I propose to address the concerns raised in the course of debate as follows. First of all, I begin with the hon. Member for Naparima. Mr. Deputy Speaker, the hon. Member is very animate and certainly assertive in his point of view. The hon. Member had a number of submissions to make. Intellectually it appeared to be the closest thing to directing traffic that I have ever seen, hands in every direction, loud voices and aggression in an intellectual sense. But if one tries to distill out of the Member for Naparima submissions, they were a little bit hard to follow, respectfully.

The hon. Member, you see, focused upon 2016. The hon. Member sought to regale this Parliament with chapter and verse of what the hon. Member considered

to be statistical coming entirely from newspaper reports. I want to recommend most sincerely to the hon. Member for Naparima, the use of the iPad that has been gifted by the Parliament for the benefit of all hon. Members and also the fact that the Opposition's office is stocked with a well-researched staff that has capability of delving into matters. And I say that because in living colour, not even in black and white, one can find the annual reports of the Police Complaints Authority. And the Police Complaints Authority annual reports have all the statistical information to answer every single question put forward by the Member of Naparima.

What I found astounding is that the hon. Member for Naparima took comfort in the 2016 report of the PCA, and that 2016 report is where the hon. Member stopped. The hon. Member did not bother to put the 2016 report in context that then Trinidad and Tobago did not have a permanently appointed Commissioner of Police. The Member for Port of Spain North/St. Ann's West was on the money in pointing out that without the direction and management of a fully constituted Commissioner of Police, not someone who is acting for seven years, this country was meandering, and in 2016, the PCA was in fact looking for prosecutorial function.

Mr. Deputy Speaker, as we stand now in 2021, we have the position of the Commissioner of Police being permanently appointed and having reported upon the lowest incidence of crime in 20 years. And very importantly, the Police Complaints Authority in its 2020 annual report laid in this Parliament sets out the fact that they no longer are focused upon prosecutorial function. And do you know why? We have reported upon this many times before, because the memorandum of understanding between the Trinidad and Tobago Police Service and the PCA is fully in effect with specialist units fully in effect such that the charging of police officers and the prosecution of matters happens under the police now.

So I say, most respectfully, to the Member for Naparima, please, do not focus upon outdated, long out-of-context matters, let us instead focus upon the most recent issues. I refer to page 104 of the Police Complaints Authority 2020 Annual Report and this is what the Police Complaints Authority has asked for:

- (i) To widen the definition of serious police misconduct.

What are we doing today, we are doing that specifically for municipal police:

- (ii) Deem the Authority constituted with one member.

What are we doing today, we are doing that:

- (iii) Impose a duty on the Commissioner to provide written decisions with reasons to the Authority within three months.

What are we doing today, we are doing that:

Proposed amendments which affect the PCA's mandate:

- (i) The Coroners Act to be amended to include the PCA under the new definition "interested parties".

Mr. Deputy Speaker, we did that in Act No. 25 of 2020 in December last year:

- (ii) The Evidence Act, Chap. 7:02, include the PCA under definition of law enforcement for audiovisual recordings.

We are doing that by way of amendment to the rules with the hon. Chief Justice:

- (iii) The Special Reserve Police Act, Chap. 15:03, implement temporary provisions which makes the Police Service Regulations applicable to Special Reserve Police.

Mr. Deputy Speaker, what are we doing today, we are doing exactly that in this Bill:

- (iv) The Financial Intelligence Unit Act of Trinidad and Tobago, ensure the Director of the FIU can forward to the Authority for investigation any report.

[MADAM SPEAKER *in the Chair*]

Mr. Deputy Speaker, we did that in December, 2020—Madam Speaker, as I welcome you back:

- (v) The Income Tax Act, particularly section 4(2), so that the Authority can be listed among parties to whom the Board of Inland Revenue can disclose income tax returns.

Madam Speaker, we did that in December 2020:

Miscellaneous Amendments (Act No. 10 of 2020) which amended the section 55 of the FIU Act providing those provisions was reflected on as a source of authority.

In other words, had the hon. Member for Naparima bothered to lift himself out of 2016 in a different climate and in a different time when in fact there was no support coming from the Opposition for the appointment of a permanent Commissioner of Police. And I want to remind this country most respectfully, Madam Speaker, when time came to support the election and nomination of Mr. Gary Griffith as Commissioner of Police the UNC was on record as saying, no. So, Madam Speaker, there in black and white print at page 104 of the Police Complaints Authority, Tenth Annual Report, every last one of the items has been conclusively dealt with by this Government.

So, Madam Speaker, I urge my colleague for Naparima to respectfully lift himself out of the vacuous intellectual approach of no research. It does not help this Parliament to have an hon. Member regale this Parliament with so much nothingness, Madam Speaker. I do not know why—Madam Speaker, it is quite interesting to hear the hon. Member refer to all of the positions in Canada. The hon. Member for Naparima made submissions to this Parliament, he said specifically and I quote:

To the Attorney General, stop bringing half-baked legislation.

He then went on to say effectively that we need to figure out where we are in the global village.

The hon. Member said he knows what is happening in Canada and therefore the hon. Member also posited that he ought to know what is happening with the TTPS. Madam Speaker, I would like to accept the hon. Member for Naparima's recommendation about the laws of Canada, because in the laws of Canada bail restrictions, anti-gang law, sexual offences law, witness anonymity, whistleblowing protection and cybercrime laws all exist in the form that we as a Government have tried repeatedly to pass and the hon. Member for Naparima is one of the Members opposing those laws. Madam Speaker, that submission coming from the hon. Member, that we should do as Canada does, just does not fly when the hon. Member sits in Opposition to all else that prevails in Canada.

It was as powerful as the hon. Member's constant reflection upon his educational background in Latin when the hon. Member said today that he learned the word "lacuna" for the first time. Last time I checked, Madam Speaker, the root was in Latin. Madam Speaker, I turn next to the submissions coming from the Member for San Juan/Barataria. The hon. Member reflected upon judicial resources—

Hon. Member: Barataria/San Juan.

Hon. F. Al-Rawi: Barataria/San Juan—at least not "Barataria/Saria" as was referred to by someone else, but I accept that, Madam Speaker. [*Crosstalk*] If I go to the positions of the hon. Member, the hon. Member called for judicial resources, for police resources and for the laws in relation to evidence.

5.35 p.m.

Last time I checked, judicial resources moved from 36 judges to 64 in the

High Court; from 12 judges in the Court of Appeal to 15; from two masters to 25; Criminal Division, Family and Children Division, magisterial—full authority and indemnity, provided an immunity to them; 129 new courtrooms; audio-visual rules; judge-only; Criminal Procedure Rules; children proceedings rules; processes inside of the court.

I have to respectfully ask the hon. Member for Barataria/San Juan, where was he in the last five years? Because all of these passed through the last Parliament. The last time I checked, the hon. Member was a distinguished Member of the Senate.

In relation to the hon. Member's position about evidence laws—Madam Speaker, again, the hon. Member for Barataria/San Juan sat and blocked the evidence amendment legislation taken to the last Parliament, blocked it with a minority report causing us to have to cleave the law to separate witness anonymity from the general evidence rules. And then, that same distinguished hon. Member for Barataria/San Juan, again, sought to block the evidence laws in this House.

So really, Madam Speaker, how do we take the hon. Member seriously when he says, bring more resources to the Judiciary, which clearly we have done; bring more resources to the police, which we clearly have done, and then deal with laws of evidence? Where was the hon. Member, Madam Speaker, in the dynamic of what has happened in the last six years, respectfully?

Madam Speaker, there was a very sensible contribution from my learned colleague for Chaguanas West. The hon. Member raised the issue of the SRPs and the application of—the entirety of the regulations in the context of the *mutatis mutandis* approach that we seek in section 2, clause 2 of the Bill. And the hon. Member was gracious enough to give way at my request. I thank the hon. Member, again, to allow me to clarify what I had said in my piloting that we intended to

amend the section to confine it to matters of serious police misconduct as we were lift out of the Police Service Regulations.

In fact, we intend to confine it to just two clauses—two sections of the Police Service Regulations: section 150(2) and section 136, if I have the numbering correct on the latter part. But I thank the hon. Member for that observation, I think he was on the money. I had myself observed it and had already contemplated that it needed to be amended, which is why I mentioned it in the piloting of the Bill.

The hon. Member for Oropouche East raised an important point. He pointed out an observation in relation to the proposed inclusion of a new section 44A insofar as it, on the face of it, allows the trigger after three months. In other words then, the first report and did not allow the continuing enquiry and therefore we propose an amendment to that section. I thank the hon. Member for the contribution. I think we are moving to a better place in that regard.

The hon. Member asked whether there was any other law which directs the TTPS to do something. And I am pleased to tell the hon. Member that Act No. 13 of 2018, the amendments to the Anti-Terrorism Act do allow the Attorney General to cause the Commissioner of Police to produce certain reports in the context of section 22B, the listing section for the Anti-Terrorism Act where the Attorney General is the functionary in those laws to cause something. So there is precedent albeit in a slightly different way.

Madam Speaker, the hon. Member asked a philosophical question in relation to the separation of powers or the independence of the Commissioner of Police within the confines of section 123A of the Constitution. And I can answer the jurisprudential question put by the hon. Member by saying that I respectfully do not believe that we are intruding upon any aspect of independence of the

Commissioner of Police in the exercise of his constitutional mandate in the four corners of section 123A. And I say that because we must read this law as a whole. When one has regard for sections 19 and 21 of the parent Act, I think we find comfort. First of all, the PCA Act as a whole, that is Chap. 15:05, the 2006 Act is a very deeply intrusive Act. It allows this independent body, this civil oversight body to get into the TTPS' business completely. Powers of search, powers of seizure, powers of enquiry are all set out inside of the functions. But when we get to the considering of section 19:

“The Authority is not subject to the direction or control of any other person in the performance of its functions under 21 and in the exercise of its powers under section 22.”

And that therefore sets out the rationale for asserting that there is comfort that we are not doing something untoward today in these amendments.

When we get to the provisions of sections 21 and 22, it is important to note that the functions of the authority are deep, and those functions are to:

- “(a) investigate criminal offences involving police officers...
- (b) undertake inquiries...audits...
- (c) monitor an investigation...
- (d) advise the Police Service”—the municipal police service—“and ...public authorities...
- (e) gather evidence that may be admissible...
- (f) gather evidence...”—to—“be used in investigation of serious police misconduct...
- (h) perform...”—such—“...other functions that may be...”—given—“by any other written law.”

And in 22, when we look at the powers, we are looking at the PCA in the

performance of its functions having powers of a commission of enquiry. And that:

“Notwithstanding...(1), the Authority shall also have the power to require—any person to produce...”— a number of things, data, reports, stored data, electronic records.

Persons—“...within a specific time...to provide any information...”

to allow for—“...facts, matters or documents...”—to be accompanied or—“...verified...oral examination...”

—furnish statements in writing, furnish information in relation to assets, financial institutions, et cetera.

So the enquiry power and the privileges granted to the Police Complaints Authority are very deep rooted and therefore when we look to the amendments in the section—in the Bill where we are asking for an improvement in clause, by the addition of section 44A, as we will now amend it, I think that if you read section 44A in the context of section 19, section 21 and section 22 of the parent Act and you look to the powers and privileges granted, that we are within the legitimate aim and intention of the legislation as it was crafted in 2006 and mind you, Madam Speaker, with then the Prime Minister Manning and the Leader of the Opposition, the hon. Basdeo Panday, both agreeing to the process. I believe the hon. Member was a Member of Parliament in those days as well, as was the Member of Laventille West and the Member for Arima as well, Diego Martin North/East.

So, Madam Speaker, I think that in a nutshell, these are the submissions that answer the enquiries made by my learned colleagues opposite. I, again, really genuinely hope that the hon. Member for Naparima will ground himself in some more current research so that we can find some better relevance in the submissions offered by that hon. Member. We those few words, I beg to move. [*Desk thumping*]

Question put and agreed to.

Bill accordingly read a second time.

Bill committed to a committee of the whole House.

House in committee.

Madam Chairman: AG, have the amendments come as yet?

Mr. Al-Rawi: Madam Chair, I was now going to indicate that Cabildo is so far away from where the House is and that is where the staff is accommodated, that I have not seen the technical staff yet arrive, and I am wondering if we could have five minutes for that.

Hon. Member: How many amendments?

Mr. Al-Rawi: There are just a few amendments to put. My Secretariat is here, not the CPC staff.

Madam Chairman: Are you sure it is going to be five minutes because—

Mr. Al-Rawi: I am really not sure. Would you allow me to enquire?

Madam Chairman: Yes, please.

[Pause]

Mr. Al-Rawi: Thank you, Madam. The amendments have been emailed to the parliamentary crew and I am told that realistically we should at least allow 10 minutes for that to be circulated.

Madam Chairman: All right. So what I am going to suggest is that we suspend the committee for—I will give us 15 minutes because it has to also be uploaded to the Rotunda so that Members could also be informed, remember we are in a paper-less environment. So, hon. Members, I will now suspend this committee meeting. It is now 5.46, we will be back here at six o'clock.

Mr. Al-Rawi: Yes, Madam.

Madam Chairman: Thank you.

5.46 p.m.: *Committee suspended.*

6.04 p.m.: *Committee resumed.*

Clause 1 ordered to stand part of the Bill.

Clause 2.

Question proposed: That clause 2 stand part of the Bill.

2 Delete clause 2 and replace with the following new clause:

“Chap. 15:03 2. The Special Reserve Police Act is amended by inserting
amended after section 22, the following new section –

“Regulation 23. Regulations 136, and 150(2) of the
136 and Police Service Regulations, made under
150(2) of section 78 of the Police Service Act, are
Police deemed to be applicable to a member of the
Service Special Reserve Police and shall apply
Regulations *mutatis mutandis* until such time as
to apply to Regulations are made-under section 22.” ”.

Special
Reserve
Police
Chap.
15:01

Madam Chairman: Attorney General.

Mr. Al-Rawi: Thank you, Madam Chair. Madam Chair, we propose an amendment to clause 2. As I indicated in my piloting and also my learned colleague for Chaguanas West had picked it up as well, the full application of the Special Reserve Police to the Police Service Regulations is complicated. What we seek to do is to capture very narrowly the serious police misconduct and the

position is to be found in a very narrow sense in the Police Service Regulations in Regulation 136 and regulation 150 subsection (2), not subsection (1). For those reasons we propose that only those regulations apply in relation to serious police conduct and therefore we propose an amendment to clause 2 to facilitate that narrow approach.

Madam Chairman: Whip? Member for Siparia?

Mrs. Persad-Bissessar SC: Thank you very much, hon. AG. We welcome this amendment that has been made and it follows through on the comments by colleague for Barataria/San Juan, but I am wondering what would happen where you have this new 23 inserted and then you have—what is it? I think it is section 5 of the parent law where there is—yeah, 5, which sets disciplinary punishment. Would there be in some way a conflict? Which one would apply?

Mr. Al-Rawi: So section 5 of the Police Service Act, the SRP Act, which one of them?

Mrs. Persad-Bissessar SC: Sorry. SRP.

Mr. Al-Rawi: Of the SRP Act. No, there is no conflict because exactly as we had in the case of the police municipal police where the regulations applied—until the 2014 regulations were brought for municipal police, there was an application *mutatis mutandis* of the Police Service Regulations for municipal police. What we are doing is we are, in the PCA Act, lifting only the serious police misconduct in sections 136 and 150 to apply as the PCA's entry into the environment. The further factor is that this is a subsequent Act of Parliament from the original SRP legislation and therefore any potential conflict as to which one conflicts would be overridden by the fact that this is a subsequent law.

Mr. Hosein: AG, the amendment that we are proposing at clause 2 would bring the Special Reserve Police, under the Police Service Regs and the disciplinary

procedure under their—if they are in contravention to regulations 136 and 150.

Mr. Al-Rawi: Yes.

Mr. Hosein: Am I right?

Mr. Al-Rawi: Yes.

Mr. Hosein: Right. Now, under section 5 of the parent Act, that is the SRP Act, there is a list of various conduct by an SRP officer that would make him liable for a disciplinary offence and for him to be disciplined and incur punishment. Now, the point is, that is the parent law and then you are subjecting them to the regs under this amendment. What we are trying to enquire is whether or not there will be an inherent conflict with now this new clause 2 that we have—that we are considering and the existing section 5 of the parent Act, because it defines and lists out various conduct that would amount to a disciplinary offence.

Mr. Al-Rawi: So section 5 says:

“Every member of the Special Reserve Police who commits any of the following offences:

- (a) insubordination;
- (b) wilful disobedience...
- (c) any contravention of section 4(5);
- (d) absence from parade, drill, or duty without leave;
- (e) making away with, pawning, selling, losing...”—carelessly.
- “(f) any act, conduct or neglect to the prejudice of good order and discipline...

shall on conviction before the officer in command of his division...”—et cetera.

Mr. Hosein: Right.

Mr. Al-Rawi: We are proposing when we get to the importation of 22, we are

lifting from the Police Service Act, specifically section 136, which treats with:

“An officer shall not make public or communicate to the press or any person, or make private copies...”—et cetera, which is not in clause 5 so there is no conflict.

Mr. Hosein: Right.

Mr. Al-Rawi: We get to section 150. We are not taking 150(1), 150(1) is—

Mr. Hosein: A catch all.

Mr. Al-Rawi:—contravention of any regulations, is that?

Mr. Hosein: Yes.

Mr. Al-Rawi: We go to 150(2) and then 150(2) is very prescriptive in going through letters (a), (d), (e), with subsections, et cetera. And what I had said earlier is that this being a latter law, the rule of implied impact of laws would come up.

Mr. Hosein: Implied repeal.

Mr. Al-Rawi: Correct. But I am not yet at repeal because I am now into the zone of subsidiary legislation versus parent legislation.

Mr. Hosein: Right.

Mr. Al-Rawi: So whatever stands in the parent law in clause 5 will be a disciplinary offence. But remember, we are looking at the definition of serious police misconduct not discipline per se.

Mr. Hosein: No.

Mr. Al-Rawi: This is the door where we categorize serious police misconduct for the purpose of the entry of the PCA. So therefore, the two things stand apart.

Mr. Hosein: Now, AG, if we go back a little. The original Bill before the amendment here, did they use the words “serious police misconduct”, which are not found in the regulations, hence the need for this particular amendment. But when you look at—if we pass this amendment now, serious police misconduct will

not find itself anywhere in the SRP Act or even in the regs. It will only be found at the PCA Act.

Mr. Al-Rawi: And you are spot on. It is for the purposes of PCA. The first time serious police misconduct was defined is in the PCA Act.

Mr. Hosein: Correct.

Mr. Al-Rawi: And therefore, you would not find it either in the municipal police or in the TTPS because it is to open the door for the interrogation of the PCA.

Mr. Hosein: You see, where I am having a little difficulty, AG, if you look at 5(f) of the parent Act that is:

“(f) any act, conduct or neglect to the prejudice of good order and discipline or in violation of duty in his office, or any other misconduct as a member of the Special Reserve Police...”

Now, that could also capture some of the things that fall under regulation 150(2).

Mr. Al-Rawi: But, hon. Member, if I could interrupt.

Mr. Hosein: Sure.

Mr. Al-Rawi: Section 5 is for disciplinary punishment in the terms of the superior officer standing over the juniors, the SRPs for disciplinary punishment; that continues on its own. The ability for the Police Complaints Authority to step in on a different process, that is to investigate a complaint made to it or ex proprio motu stands apart from that. So this is the trigger by which we cause the entry in. So I appreciate the line of enquiry but I do not think we have a conflict.

Mrs. Persad-Bissessar SC: So are we saying both are subsistent at the same time?

Mr. Al-Rawi: Yes. Yes. Because they are for different purposes. Under section 5 the purpose is the disciplinary punishment in the management of that Act. So this Act, the SRP Act contemplated disciplinary punishment via parent law section 5, et cetera— *[Interruption]* Yes and then it also contemplated something which did not

happen, that regulations would exist, and the regulations were not done and now they are being done in consultation with the various parties as we speak. So this particular disciplinary punishment, under the parent Act continues, but the PCA's entry for the purpose of what it has defined as serious police misconduct, that key is under—is to open the door of the PCA.

Madam Chairman: Okay?

Mr. Al-Rawi: Yeah.

Mrs. Persad-Bissessar SC: Thank you very much. Would we not avoid some of these questions that are arising—were we to consider inserting into the SRP law, the definition of serious police misconduct? Because we are still depending on how it is defined in the PCA.

Mr. Al-Rawi: So, I thank you for the question. We have not done it for the TTPS, Chap. 15:05 or for the municipal police because there it is also not relevant. It was only for the definition at PCA to open the door. In fact, later on you will notice that we are proposing to insert, Madam Chair—sorry to anticipate it—a proclamation clause, a proclamation bit. That is specifically, in mind, to see whether we need to disaggregate partial proclamation for this very issue, because what we would ultimately like to do is to finish the regulations for the SRP separate and apart, so we do not have to rely upon any collision of laws because it was quite messy under the Municipal Police Regulations when you were applying the TTPS regs to the municipal police as well.

6.15 p.m.

Mrs. Persad-Bissessar SC: Okay, I am guided. Thank you.

Mr. Al-Rawi: Thank you for the enquiries. Thank you, Madam Chair, for facilitating the enquiry.

Madam Chairman: This question is that clause 2—

Mr. Al-Rawi: Madam Chair, forgive me, could I ask you to please note that marginal note set out in that which is circulated for clause 2—you see in the marginal note where it says 150, it really should be 150(2), marginal note of the draft of the circulated amendments. So it should be Regulation 136 and 150(2). Thank you, Ma'am.

Madam Chairman: Okay. So, the question is that clause 2 be amended as circulated, and I take it that the final inclusion is in the amendment.

Question put.

Mrs. Persad-Bissessar SC: Excuse me again AG, if I may, the regulation as circulated will not have the final words of the AG which is to insert the bracket in (2) in the marginal note.

Mr. Al-Rawi: Thank you. I thought that is what you had intended by what you said, Madam Chair. But I thank you for the clarification.

Mr. Hosein: Madam Chair, if I may? AG, just looking at the citation of the Police Service Regs and under Regulation 1, these regulations may be cited as Police Service Regulations 2007, I think you may have to insert the word, the numbers “2007” after the word “Regulations”. Because the citation of the regulations, if you look Regulation No. 1(1) it is cited as Police Service Regulations 2007.

Mr. Al-Rawi: Madam Chair, my drafters are assisting me because this is outside of my league. The reference to Chap. 15:01 takes care of that, according to Law Reform and Chief Parliamentary Counsel.

Mr. Hosein: All right, I was looking at the title—[*Interruption*]

Mr. Al-Rawi: Thank you, for caution. Understood.

Madam Chairman: Okay. Just so that we all are on same page, I have taken it that the amendment that has been circulated has, in bracket after 150 the number 2 in the marginal note.

Mr. Al-Rawi: Yes, please.

Madam Chairman: Okay, so I therefore I put the question.

Question agreed to.

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3.

Question proposed: That clause 3 stand part of the Bill.

A. Delete subparagraph (a)(iii) and replace with the following new subparagraph:

“(iii) by deleting the definition of ‘serious police misconduct’ and substituting the following definitions:

‘serious police misconduct’ means—

- (a) in respect of a member of the Police Service or the Municipal Police Service, the commission of a disciplinary offence under the Police Service Regulations or the municipal Police Service Regulations, as the case may be; or
- (b) in respect of a member of the Special Reserve Police, the commission of a disciplinary offence under regulations 136, and 150(2) of the Police Service Regulations, which the Authority considers to be so serious as to bring the Police Service, the Municipal Police Service or the Special Reserve Police into disrepute; and’;

B. Insert after paragraph (e), the following new paragraph:

- “(f) in section 30(1), by—
- (i) deleting the words “the Act” and substituting the words “this Act”; and
 - (ii) inserting after the word “Commissioner” the words “Assistant Commissioner”;
- C. Renumber paragraphs (f) and (g) as paragraphs (g) and (h), respectively; and
- D. In paragraph (g) as renumbered—
- (a) renumber proposed section 44A, as section 44A(1); and
 - (b) insert after section 44A(1) as renumbered the following new subsections:
 - “(2) Where three months under subsection (1) has expired and the Authority has not received a written update on the progress of a matter, the Authority may request such further updates as it may require.
 - (3) Where the Authority has received a written update under this section and requires further updates in respect of the matter the Authority may make such further requests as it requires and the Commissioner or the Assistant Commissioner shall so provide.”

Mr. Al-Rawi: Madam Chair, we propose four adjustments to clause 3, and if you will permit me? The first adjustment in the draft which is circulated at A is to take care of the fact that we have amended clause 2. In referring to the disciplinary route of 136 and 150, serious police misconduct, we, having accepted it as an amendment to clause 2, we need to now adjust the definition of serious police misconduct. So, that which is shown as in bracket (a) is what exists already, we are

just refining the SRP position to confine it to 136 and 150(2) of the Police Service Regulations.

The second amendment is set out at B. This is something which we observed in the final proofing of the parent law. In the final proofing of the parent law section 30(1) should have had the reference to the Assistant Commissioner to also allow the municipal police route to happen. So, the Parent Act needed to be adjusted to include, as we have done right through the thematic content of this Bill, the reference to the Assistant Commissioner so that we can capture the recommendations to the Assistant Commissioner for municipal police. At paragraph C, this is a consequential as a result of the adjustment, so (f) and (g) become (h) and (i), and then at paragraph D, taking the observation coming from the Member for Oropouche East, who made enquiries in the course of his contribution as to what happens after the three months have expired. As I said in my wrap up, I agree with the hon. Member that we need to make an adjustment to this clause, and therefore we have proposed that there be a new subsection (2). We put 44A as a (1), we put in a (2). We are three months under (1) has expired, and the PCA has not received a written update on the progress of a matter. The PCA may request such further updates as it may require. Is that PCA appropriate, the abbreviation?

[Mr. Al-Rawi confers with drafters]

It should be Authority, Madam Chair.

Madam Chairman: AG, might I just intervene and ask something?

Mr. Al-Rawi: Yes, Ma'am.

Madam Chairman: In terms of your C in the amendments, where you say, renumber paragraphs (f) and (g) to (h) and (i). So your (f) becomes (g) and therefore your (g) will become (h)?

Mr. Al-Rawi: Just give me a moment. So we have—

[Mr. Al-Rawi confers with drafters]

Yeah, we are really inserting a new (f) and we are renumbering (f) as (g). Just give me a moment to clean that up.

[Mr. Al-Rawi confers with drafters]

We take in the following new paragraph (f), that would be correct, and then renumber paragraph (f) as (g), and that should be it. Right? And then, Madam Chair, in D, as opposed to the abbreviation PCA, it should be Authority in both places. You have an (h)?

Madam Chairman: Yes, you have an (h), you do not have an (i).

Mr. Al-Rawi: Yes, (g) and (h), respectively. Yes, Ma'am, (g) and (h) respectively.

Madam Chairman: Okay. Member for Siparia.

Mrs. Persad-Bissessar SC: Just a query with the new 44A, where we are asking the Commissioner of Police to within three months make recommendations. So if he—we are asking the Commissioner to report to the Police Complaints Authority. Can we do that when at the moment in the law as it stands, I think one of my colleagues may have raised this point, the Commissioner is not to report to any other body. He reports to the Police Service Commission, are we now asking him, well, we are expressing here that he should give a report to the PCA. Can we do that in this simple manner?

Mr. Al-Rawi: So, Madam Chair, I had answered that in my wrapping up by saying if we look to section 19, which is their autonomy to be independent, and we look to sections 21 and 22 where the powers and functions are very specific, the aim and objective of the Act is that there is an investigative arm, and that there is a reference, and that there is a feedback, because it is set out in the powers and functions fully. So the answer to the question put is, in my respectful view, yes,

that we can do that because we are within the four corners of the Act itself. The reference to the section 123A of the Constitution, which is where the Commissioner of Police reports to the Police Service Commission, is in respect of other matters.

The Commission has the supervision over him, and he has the supervision over everyone else. So, we are not colliding with the structure of 123A of the Constitution. We are staying within the four corners of the PCA Act. And when we look to section 21 of the Act—so, Madam Chair, 19, the Authority is not subject to direction or control of any other person in the performance of its functions under 21 and 22. 21, the functions of the Authority are, and if you look at A straight through to H, those functions contemplate in the widest sense, a feedback mechanism as to the report. Now, look at what we are asking for in 44. In 44 we are saying provide the Authority with written decision and reasons on any action which has been, or taken, or is proposed to be taken, or not taken in respect of a recommendation, or a written update, providing that action to the PCA, first of all it is within the powers, 21 to 22.

And secondly it is maintained entirely strictly. But more than that, it is like a feeding loop, because whatever is reported back allows the PCA to consider whether it wishes to proceed any further than that, which has happened, because it has a continuing obligation to monitor investigations and recommendations. So the danger and mischief that we are seeking to solve is, that the PCA sends a recommendation to the Commissioner of Police to consider A, B, C, D and E and to act upon it. The Commissioner then says I will consider A and B only, that the Commission should at least, the PCA should at least have the information back to consider if it wishes further recommendations, including an alternative route to the DPP, if necessary so as to exhaust the options available to the PCA in respect of its

access, not only to the Commissioner of Police, but also in respect of the DPP's port. So, there is no consequence to failure other than a mandamus, you will have to go to court and seek the court's relief to cause the Commissioner to do something. But, when the PCA receives whatever it comes back within the confines, mandamus can cause him to be compelled to do something, but the only other port of call for the PCA is to the DPP, so it is within that closed loop structure of the PCA Act itself.

Mrs. Persad-Bissessar SC: AG, I thank you. I perfectly understand the rationale, and it is a very good rationale. My question still remains, legislatively, can we do that in this simple manner? That is my question, procedurally, can we do that? Can we empower? Can we require a Commissioner of Police to have to answer to the PCA? The rationale is perfectly reasonable, because as I think it happens, maybe at the moment, matters are sent and no replies are given, there is no follow through, no follow up and so on. I understand the rationale, it is just from the legislative aspect whether we can do it in this simple manner.

Mr. Al-Rawi: Madam Chair, my respectful view is that we can, because it fits within the four corners of what the Act itself is suggesting. I will do two things now: I would look to section 123 of the Constitution—

Mr. Young: Madam Chair, whilst the AG is looking to 123A, there is nothing in the Constitution that provides the Commissioner of Police or any police officer with immunity, you know.

Mrs. Persad-Bissessar SC: Why—

Mr. Young: May I speak!

Mrs. Persad-Bissessar SC: Go ahead speaking.

Mr. Young: 123A is simply a provision giving the Commissioner of Police, making him effectively the accounting officer and putting him squarely in charge

of the financial and administrative aspects of running the police service. The Police Complaints Authority is a legislative body designed to have independent oversight on every police officer. So, I am not understanding this imaginary argument about constitutionality and whether the PCA, we are infringing on the constitutionality of a Commissioner of Police. That is a ridiculous proposition in law.

Madam Chairman: Okay.

Mrs. Persad-Bissessar SC: Madam Chair, I thank the hon. Minister, but I am not convinced and I await the words of the Attorney General.

Madam Chairman: All right.

Mrs. Persad-Bissessar SC: And I think it is with greatest of respect that we should treat each other, if we are trying to do this in this manner together to make good law. [*Desk thumping*] I will not take the insults and the shouts from my colleague.

Madam Chairman: Attorney General, if you are not ready I will call upon the Member for Oropouche East in the meantime—

Mr. Al-Rawi: Sure.

Madam Chairman:—to make his intervention and then we will call on the Attorney General.

Mr. Al-Rawi: Madam Chair, I am ready.

Madam Chairman: Just a minute please, yes.

Mr. Al-Rawi: Could I do this, just so everything does not get too far away—

Madam Chairman: Yes, proceed.

Mr. Al-Rawi:—and then the hon. Member could re-join. So, I thank the Member for the observations that we are being careful. I am looking now specifically at the Constitution of the Republic Trinidad and Tobago, first part of reference, section 54. 54, of course is the entrenchment provision, as we all know, and we see that

sections 116 to 125 are within the entrenchment aspects, supported by no less than two-thirds of the members. Right? Let us go to section 123A. Section 123A of Constitution, which is where we are looking at the springboard now, sets out as follows, and I think this is where my colleague, the Minister of National Security was:

“Subject to section 123(1), the Commissioner of Police shall have the complete power to manage the Police Service and is required to ensure that the human, financial and material resources available to the Service are used in an efficient and effective manner.

The Commissioner of Police”—this is subsection (2)—shall have the power to—

appoint persons...

transfer any police officer...

remove from office and exercise disciplinary control over police officers other than an officer referred to in 123(1)(a).

The functions of the Commissioner of Police under this section may be exercised by him in person or through any”—person, et cetera, in the performance of his functions under this section.

“...the Commissioner of Police shall act in accordance with the Police Service Act...and the regulations made there-under.”

In the amendment that we proposed in 44A, the door that is being opened is that the Commissioner of Police shall within three months of making a recommendation in accordance with 44(2), and 44(2) is that the Authority may in its assessment ask the Commissioner to do something. The Commissioner, as the case may be, within three months of the Authority—that is the PCA making a recommendation to the Commissioner—shall provide the Authority merely with a

written decision, with reasons, on any action or a written update. So, we are not affecting any of the powers set out in 123A that exclusive domain for discipline, et cetera, as the hon. Member is asking us to have a second look at to make sure that is the way I take it. I am now fully comforted that we are not intruding on 123A in any way or any fashion, because we are not asking the Commissioner to do something which he alone can exercise. All that we are saying is, could you please report in relation to the recommendation that you have, which I think only feeds the concept of transparency within the four corners of sections 19, 21 and 22 of the PCA Act.

Mrs. Persad-Bissessar SC: Thank you, AG.

Madam Chairman: Member for Oropouche East.

Dr. Moonilal: Thank you very much, Madam Chair. Just for the record, to place on record, Attorney General, in your response to this issue, you had raised the matter of the Anti-Terrorism Act.

Mr. Al-Rawi: Yes.

Dr. Moonilal: Now, I also served on the Joint Select Committee of that Act and this matter came up—I remember—and we tried to skirt around it to get to the objectives without necessarily infringing any constitutional protection of the Police Service Commission and the Commissioner of Police. Now, in the Anti-Terrorism Act, which I have before me, first that was passed by a special majority.

Mr. Al-Rawi: Yeah.

Dr. Moonilal: There are two references to the Commissioner of Police: One, where—in nutshell—a foreign country requests the Attorney General to declare, and the Attorney General can refer that matter to the Commissioner of Police who conducts his investigation, and based on that investigation concerning a request of a foreign country reports back or writes back to Attorney General, now that is a

specific issue of another country requesting a declaration.

Mr. Al-Rawi: Under MACMA yes.

Dr. Moonilal: The second reference is where the Attorney General gets information on terrorist activities and so on, and we worded it in this way that the Attorney General shall refer it to the Commissioner of Police who may conduct an investigation, but it stops there. I do not think in the Act it comes back that the Commissioner is under statutory duty to report to the Attorney General, even on that matter.

Mr. Al-Rawi: So, Madam Chair, I thank the hon. Member. The words used in the Anti-Terrorism Act, No. 18 of 2018, if that is the section itself.

Dr. Moonilal: Yes, that is it.

Mr. Al-Rawi:—“are caused an investigation”. And what we were wrestling with in that Joint Select Committee for Anti-Terrorism was the Attorney General’s role in relation to police matters, and we accepted that the Attorney General in discharging the functions for listing provisions was acting in a quasi-criminal aspect pursuant to the anti-terrorism law, and then we went back to the old 1976 Constitution and the creation of the DPP cleaving the criminal law functions away from the Attorney General in those days.

In this particular law, let us look at mischief that we are discussing. We are doing nothing other than saying, that the PCA Act, was specifically designed to allow the enquiry by an independent body called the Authority into matters of police corruption, police criminal offences, serious police misconduct. All that 44 is requesting is that pursuant to the Authority making a recommendation under 44(2), where the Authority says, “Mr. Commissioner, we have investigated this matter, over to you, please consider, 1, 2, 3, 4, which will be under your disciplinary functions under section 123A of the Constitution.” What we are asking

for is that the Commissioner provide a feedback to the PCA, which has that authority to recommend it in the first place simply as to what has happened. And therefore, we are not intruding upon any aspect of constitutionality. This is merely the continuation of something which has been granted already. All that it is, is a feedback loop. From a proportionality perspective in terms of law I am confident that we are well within the principles of *Suratt*, or even section 13(1), notwithstanding the fact that we do not need to use an exception of the section 13(1) of this law.

Mr. Young: Correct. Madam Chair, just to add to what the AG has just said and to bring this back into context, this is not even judicially reviewable, you know. Because what this—all this is doing is saying that the Commissioner now has an obligation within three months to tell the Police Complaints Authority what he is planning to do, if he is not doing anything, to give a reason. That is a singular duty to provide a report to the Police Complaints Authority, not to the public, not to the Executive, not to anyone else but the Police Complaints Authority, and it ends there. So there cannot even be a challenge by the Police Complaints Authority—a judicial review as to, well, why you took that decision. It is just for a level of accountability. The Police Complaints Authority have completed an investigation, they have provided that to the Commissioner of Police, you now have three months to tell us, at the end of three months what it is you have done with it.

Mr. Al-Rawi: Madam Chair, I thank my colleague because he is spot on. It buoyed by 21(4). When that singular route, as my colleague has put it, comes forward, 21(4) says, “Notwithstanding any written law to the contrary, information and evidence obtained by the Authority in the performance of its function”—this is the new function—“under this Act the confidential.” So it cannot even go anywhere else. It is to allow that feedback, as I call it, in a frequency sense to

complete the loop as to what has happened, and in terms of a mischief being treated by law and proportionality, there can be nothing more proportional than saying, look, there is this suspicion in society that the police do nothing in relation to reports that are sent to them, and therefore the Authority that has the power in law to ask them to do things ought to at least know.

Madam Chairman: Member for Barataria/San Juan.

Mr. Hosein: Thank you very much, Madam Chair. AG, earlier on I heard you mentioned a mandamus in terms of compelling the Commissioner. I just heard the Minister of National Security—

Mr. Al-Rawi: His point on judicial review. I thought you would raise it eh.

Mr. Hosein: Because what I am sensing is that there is an inconsistency—

Mr. Al-Rawi: No, there is not an inconsistency.

Mr. Hosein: What I am trying to figure out is that if the Authority, sorry, if the Commissioner does not furnish the Authority with the report within the three months or even later, what powers or what happens, can the Authority go to court?

Mr. Al-Rawi: What my colleague, I would not speak for him because I will allow the Minister of National Security to clarify his point on JR, but our points are mutually exclusive.

Mr. Hosein: Okay.

Mr. Al-Rawi: Obviously, if there is a requirement a court can step in to say, well please do that which you should, give your response. It is not that we are judicially reviewing what he does in the body of it, the inside of his response. He is giving you a vessel, here is my response and my reasons. Minister Young's point is solid, it is clear. We are not interfering with what is inside that vessel.

Mr. Hosein: So, we agree that the Authority has the power to go to JR to ask the commissioner to produce a report, end of story?

Mr. Al-Rawi: Only to do that which the law says they ought to. And yes, of course, I mean that flows from the fact that it is put into law. But Minister Young's point which I think is 100 per cent correct is that we are not judicially reviewing what the Commissioner of Police did in relation to his decision.

Mr. Hosein: Of course not, judicial review does not review the decision, it is just a supervisory jurisdiction of the court.

Mr. Al-Rawi: Correct, yes.

Mr. Hosein: It is not an appeal.

Mrs. Persad-Bissessar SC: If it is we are giving them, we say after three months the further amendment that you are making, which is very reasonable, if after that three months the Commissioner has not complied they could request further updates, so it issues you an opportunity to comply with the statutory duty. This is now a statutory duty—

Mr. Al-Rawi: Yes.

Mrs. Persad-Bissessar SC:—which is therefore reviewable.

Mr. Al-Rawi: Yes. And If I paint it this way—

Mrs. Persad-Bissessar SC: Therefore, my colleague is correct.

Mr. Al-Rawi: Well, I think there is a distinction between—there is a fine distinction, and I think Minister Young is absolutely correct in what he is saying. But I will put it this way, remember because it is an annual report that comes out, people find it dissatisfactory that these reports come out and they do not know. We get a further report now, you know, where the PCA gets to say, well, I ask the Commissioner a 100 times about X number of matters and it is not moving. That now causes the public enquiry to be alerted to look, is there something untoward and should we look at this. So, we thought that the statistical information that could come out of this would be very useful to the public.

Mrs. Persad-Bissessar SC: The rationale is very laudable, hon. AG. It is. I thank you.

Mr. Al-Rawi: Thank you.

Madam Chairman: Okay. So just so that for the record we are certain what we are doing. As far as clause 3, we are amending 3, (a)(iii). Okay? And then we are inserting a new (f), and therefore at capital C, the current (f) and (g) become (g) and (h).

Mr. Al-Rawi: Yes.

Madam Chairman: All right, and then, of course, what happens at D.

Mr. Al-Rawi: Yes, Ma'am.

Madam Chairman: All right, so—

Mr. Al-Rawi: We are changing the PCA to Authority.

Madam Chairman: Yes, but there is already—okay, that is not there.

Mr. Al-Rawi: We are amending—we are striking PCA as it appears and circulated in both places and we are inserting instead, Authority.

Madam Chairman: Yes.

Mr. Al-Rawi: Yes, Ma'am.

Mr. Hosein: Paragraph (h).

Madam Chairman: Thank you. So in D—and I thank Barataria/San Juan—in paragraph (g) it should really be in paragraph (h). You sure that is correct?

Mr. Al-Rawi: Because we had renumbered (f) and (g) as (g) and (h), so it should be—

Madam Chairman: AG, just check—

Mr. Al-Rawi: Double check it?

Madam Chairman:—with your staff if it is correct please, because I think it—

Mr. Al-Rawi: It would be (g), correct?

Madam Chairman: It is correct.

Mr. Al-Rawi: Okay, it is correct. Thank you.

Madam Chairman: Member for Oropouche East.

Dr. Moonilal: Yes, thank you very much. Just some clarification from the Attorney General. In the amendment being proposed now, amendment two, is it fair to say that with this amendment, if the PCA receives a written update from the Commissioner of Police on the progress of a matter, the PCA cannot request further updates as it may require?

Mr. Al-Rawi: “The PCA may request such further updates as it may require”.

Dr. Moonilal: But that is only if they have not received an initial written update.

Mr. Al-Rawi: Well, the point is that we have established in (i) the compulsion that look, three months, let us know. In (ii), where three months under (i) has expired, and the Authority has not received a written update, the PCA may request such further updates. Flowing from that, they can then continue to ask.

Dr. Moonilal: No, what I am saying is, if the police gives an update, which is an update on any investigation and so on and the progress of a matter, the PCA according to this amendment cannot request further updates. This is only if they had not received their written update on the progress of the matter where three months have expired. You understand, I do not know if I am making sense?

Mr. Al-Rawi: Yeah, yeah. If I put it quite simply into the operation, three months passed, the PCA says to you—I am sorry, the Commissioner of Police says to you, we are working on it. So they have given you an update. Or, we have completed our investigation and we see nothing further because of X. So let us take the first case. Your question is, well okay, if I get a response from you saying you are working on it, can I ask you again about it. Is that it?

Dr. Moonilal: In writing. Properly in writing, not just, you know, frivolous.

Mr. Al-Rawi: Let us take a look at that. What do you think?

Dr. Moonilal: Yeah, they could submit in writing that, you know, you have an update on a case, and then that prevents you from asking again.

6.45 p.m.

Mr. Al-Rawi: Madam Chair, just to say, I thank the Member for the enquiry. Out of an abundance of caution we are proposing fresh language to capture a new subsection (3) for a further update. And we are proposing, with your permission, Madam Chair, and for Members' consideration the following words as a new subparagraph (3):

“Where the Authority has received a written update under this section and requires further updates in respect of the matter the Authority may make such further requests as it requires and the Commissioner or the Assistant Commissioner shall so provide.”

And I thank my colleague for the intervention.

Mrs. Persad-Bissessar SC: AG, can I make another suggestion? With the new amendments (2) and (3), both which are not objectionable, they referred to where the three months have gone and you have not received a written update and the one you just read, I think where you have “not”, it also refers to where you have received a written update. Am I correct?

Mr. Al-Rawi: Sorry, would you just—one more time. So where—

Mrs. Persad-Bissessar SC: In (2) where three months have gone—

Mr. Al-Rawi: Yeah.

Mrs. Persad-Bissessar SC:—and the PCA has not received a written update, a written update—and I am emphasizing the word “update”. And then this one you have just given us is where you have received. So one where you have not received and one where you have received. Am I correct?

Mr. Al-Rawi: Yes.

Mrs. Persad-Bissessar SC: That is what—the report of (2) and (3).

Mr. Al-Rawi: Yes.

Mrs. Persad-Bissessar SC: But we are only referring to updates, whereas in the (1) of this 44, the new 44, we talk about a written decision. Would we want to insert those words? Because if you want a further update, a further update will be different from say, an original decision.

Mr. Al-Rawi: I catch your point. If I could quickly say that once a decision is made we are *functus*, it is done. I think it is where it is ongoing that we focus on the updates. So it is where you are taking the latter bit where you have not completed. But the minute the PCA says we are done—

Mrs. Persad-Bissessar SC: Done.

Mr. Al-Rawi:—they are *functus*.

Mrs. Persad-Bissessar SC: Thank you.

Mr. Al-Rawi: Thank you, Madam Chair.

Question put and agreed to.

Clause 3, as amended, ordered to stand part of the Bill.

Mrs. Persad-Bissessar SC:—the hon. AG before we complete the committee stage, please.

Madam Chairman: Excuse me?

Mrs. Persad-Bissessar SC: May I crave your indulgence to raise a matter with the hon. Attorney General with respect to this Bill?

Madam Chairman: We just have one more—

Mrs. Persad-Bissessar SC: Before we totally wrap—yes, thank you.

Madam Chairman: Okay. Before we read the proper report.

Mrs. Persad-Bissessar SC: Yes, thank you.

Commissioner of Police, we are actively hard at work on amendments across the positions. Not only in respect of the SRP, we have supplemental police and estate police as well that are in the mix, as well as the regulations that bind them. Because now what is happening, SRPs now being beyond their regular purpose, more like full time—

Mrs. Persad-Bissessar SC: Yes.

Mr. Al-Rawi:—working, we are seeing the inconsistencies, not only in respect of terms and conditions but also in respect of how you discipline and manage the production. So that is the subject of some dedicated work by my colleague, the Minister of National Security. And I should also take the opportunity to say he is also engaged in a very deep exercise for a number of other laws that are very difficult. For instance, the Immigration Act and others.

Madam Chairman: AG, excuse me, what I will do, I will ask us—

Mr. Al-Rawi: That is it.

Madam Chairman: Okay, great.

Mr. Al-Rawi: But, Madam Chair, and the rationale for this—

Mrs. Persad-Bissessar SC: That is it.

Mr. Al-Rawi:—1A, you do not need, right?

Madam Chairman: I will have already—

Mr. Al-Rawi:—put it, thank you.

Madam Chairman: We would have already voted.

Question put and agreed to: That the Bill, as amended, be reported to the House.

House resumed.

Bill reported, with amendment.

Question put: That the Bill be now read a third time.

Mr. Lee: Division.

Madam Speaker: Okay, so Members, [*Crosstalk*] Members will know that when a division is called we allow three minutes to elapse to allow Members who are within the precincts to make their way to the Chamber. Again, I remind that even if a Member's turn has passed but the Member makes it into the Chamber before the vote is called, the Member will be allowed to vote.

The House voted: Ayes 37

AYES

Deyalsingh, Hon. T.

Al-Rawi, Hon. F.

Imbert, Hon. C.

Young, Hon. S.

Beckles, Hon. P.

Hinds, Hon. F.

de Nobriga, Hon. S.

Forde, E.

Webster-Roy, Hon. A.

Gadsby-Dolly, Hon. Dr. N.

Gonzales, Hon. M.

Mc Clashie, Hon. S.

Cummings, Hon. F.

Richards, K.

Manning, Hon. B.

Leonce, Hon. A.

Morris-Julian, Hon. L.

Scotland, K.

Monroe, R.

Cudjoe, Hon. S.

Lee, D.

Persad-Bissessar SC, Mrs. K.

Ameen, Ms. K.

Charles, R.

Moonilal, Dr. R.

Ratiram, R.

Indarsingh, R.

Bodoe, Dr. L.

Hosein, S.

Haynes, Ms. A.

Madam Speaker: Just one minute, please. We all know there is a particular way to wear the mask, a ll right? And I hope everyone here will comply with how we should wear the mask. Please continue, Clerk.

Division continued.

Tancoo, D.

Mohit, Ms. V.

Benjamin, Ms. M.

Rambally, D.

Ragbir, Dr. R.

Ram, A.

Seecheran, Dr. R.

Question agreed to.

Bill accordingly read the third time and passed. [Desk thumping]

ADJOURNMENT

UNREVISED

Adjournment

2021.03.05

The Minister of Health (Hon. Terrence Deyalsingh): Thank you very much, Madam Speaker. Madam Speaker, I beg to move that this House do now adjourn to next Friday, Friday the 12th of March at 1.30 p.m. It is the Government's intention on that date to debate the following: Cariforum States (The Caribbean Community and Dominican Republic) and the United Kingdom of Great Britain and Northern Ireland Economic Partnership Agreement Bill, 2021. We will take it through all its stages and time permitting we will start the Mutual Assistance in Criminal Matters (Amdt.) Bill, 2021. Thank you very much, Madam Speaker.

Madam Speaker: So, hon. Members, there is one matter that qualifies to be raised on the adjournment. I believe the Member for Barataria/San Juan, you have a particular position on this matter.

Mr. Hosein: Yes. Madam Speaker, I wrote to your office for the matter to be withdrawn.

Question put and agreed to.

House adjourned accordingly.

Adjourned at 7.05 p.m.