

The Interim Report of the
Special Select Committee (Senate)
on the
Sexual Offences (Amendment) (No. 3)
Bill, 2021



Second Session (2021/2022),
Twelfth Parliament



SECOND SESSION OF THE 12TH PARLIAMENT (2021/2022)

INTERIM REPORT

OF

THE SPECIAL SELECT COMMITTEE OF THE SENATE

APPOINTED TO CONSIDER AND REPORT ON

A BILL ENTITLED, “AN ACT TO AMEND THE SEXUAL OFFENCES ACT, CHAP.

11:28”

MP PARL: No. 14/2/33

Senate Paper No. of 2022

[Ordered to be printed by the Senate]

Date Laid in the Senate: 08/02/2022

Committee Mandate

Pursuant to a resolution of the Senate on Tuesday January 11, 2022, a Special Select Committee was established to consider and report by February 01, 2022 on the Sexual Offences (Amendment) (No. 3) Bill, 2021.

Committee Membership

Mr. Clarence Rambharat - Chairman
Mr. Randall Mitchell
Mrs. Renuka Sagrarsingh-Sooklal
Ms. Jayanti Lutchmedial
Mr. Paul Richards

Secretariat Support

Mr. Johnson Greenidge, Procedural Clerk Assistant	Secretary
Mr. Brian Lucio, Procedural Clerk Assistant	Assistant Secretary
Ms. Rebecca Rafeek, Procedural Officer Intern	Assistant Secretary
Ms. Katharina Gokool	Researcher

Contact

The Secretary
Special Select Committee (Senate) on the Sexual Offences (Amendment) (No. 3) Bill, 2021
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Date Laid in Senate: 08/02/2022

Senate Paper No.:

PARL No.: 14/2/33

CHAIRMANSHIP

1. Pursuant to a resolution of the Senate on Tuesday January 11, 2022, Mr. Clarence Rambharat was appointed to be Chairman of the Committee, in accordance with **Standing Order 85(2)** of the Senate.

MEETINGS

2. Since its appointment, your Committee has held fourth (4) meetings on the following dates:
 - Friday January 14, 2022;
 - Friday January 25, 2022;
 - Friday January 28, 2022; and
 - Friday February 04, 2022.
3. The Minutes of the Meetings are attached at **Appendix I**.

WORK TO DATE

4. At its **First Meeting** held on Friday January 14, 2022, your Committee agreed to:
 - (i) issue requests to the following stakeholders for comment on the Bill and advise on the possibility of an invitation to participate in future stakeholder engagement sessions:

Government Agencies

- The Judiciary;
- The Director of Public Prosecutions;
- The Trinidad and Tobago Police Service;
- The Trinidad and Tobago Prison Service;
- The Ministry of National Security;
 - Immigration Division;
 - Strategic Services Agency;
- Office of the Prime Minister - Gender and Child Affairs Division;
- The Children's Authority of Trinidad and Tobago;
- The Ministry of Foreign and CARICOM Affairs;
- The Ministry of Social Development and Family Services; and
- CreativeTT.

Non-Governmental Organisations

- The Law Association of Trinidad and Tobago;

- International Criminal Police Organization (INTERPOL);
 - Coalition Against Domestic Violence;
 - Rape Crisis Society;
 - Caribbean Center for Human Rights;
 - The Network of NGOs of Trinidad and Tobago for the Advancement of Women;
 - Child Welfare League of Trinidad and Tobago;
 - Women's Institute for Alternative Development (WINAD);
 - National Organisation of Women;
 - Womantra;
 - Feminitt Caribbean;
 - Institute of Gender and Development Studies, UWI;
 - Organisation for Abused and Battered Individuals;
 - Trinidad and Tobago Carnival Bands Association;
 - Trinidad and Tobago Promoters Association;
 - Photographers and Videographers Association of Trinidad and Tobago;
 - The Modelling Association of Trinidad and Tobago;
 - Caribbean Association of National Telecommunication Organisations (CANTO);
 - Media Association of Trinidad and Tobago (MATT);
 - Copyright Organisation of Trinidad and Tobago (COTT);
 - Trinidad and Tobago Association of Psychologists;
 - Southern Assembly of Lawyers; and
 - Trinidad and Tobago Publishers and Broadcasters Association (TTPBA).
- (ii) request from the Law Reform Commission a presentation on the Bill, including an outline of the relationship between the Sexual Offences (Amendment) (No. 3) Bill, 2021 and the draft Cybercrime legislation; and
- (iii) invite the following entities to a stakeholder engagement session at its next meeting:
- The Office of the Director of Public Prosecutions;
 - Trinidad and Tobago Prison Service; and
 - Trinidad and Tobago Police Service.
5. Further to its requests for submissions, your Committee received written comments on the Bill from the Trinidad and Tobago Prison Service.

6. At its **Second Meeting** held on Tuesday January 25, 2022, the Criminal Justice Unit, AGLA¹ and the Law Reform Commission made a presentation to your Committee on an overview of the Bill, including its relationship with the draft Cybercrime legislation.
7. Subsequent to its Second Meeting, your Committee received written comments from:
 - (i) The Ministry of Foreign and CARICOM Affairs;
 - (ii) The Ministry of National Security; and
 - (iii) Office of the Prime Minister (Gender and Child Affairs)
8. The stakeholder engagement session with the entities named at item 4 (iii) above was postponed to the next meeting.
9. By email dated January 27, 2022, the Director of Public Prosecutions notified the Committee that owing to other pressing official commitments, he was unable to participate in the stakeholder engagement session scheduled for Friday January 28, 2022.
10. At its **Third Meeting** held on Friday January 28, 2022, your Committee received oral submissions (in public) from the following stakeholders:
 - (i) Trinidad and Tobago Prison Service; and
 - (ii) Trinidad and Tobago Police Service.
11. Subsequent to its Third Meeting, your Committee received written comments from:
 - (i) The Children's Authority of Trinidad and Tobago;
 - (ii) The Ministry of Social Development and Family Services; and
 - (iii) CreativeTT.
12. The Verbatim Notes of this meeting are attached at **Appendix II**.
13. Pursuant to its requests, written submissions remain outstanding from the following:

Government Agencies

 - The Judiciary; and
 - The Director of Public Prosecutions.
14. The following stakeholders were requested to provide a written submission by February 03, 2022:

Non-Governmental Organisations

 - The Law Association of Trinidad and Tobago;

¹ Office of the Attorney General and Ministry of Legal Affairs

- Coalition Against Domestic Violence;
- Rape Crisis Society;
- Caribbean Center for Human Rights;
- Child Welfare League of Trinidad and Tobago;
- Women's Institute for Alternative Development (WINAD);
- Womantra;
- Feminitt Caribbean;
- Institute of Gender and Development Studies, UWI;
- Organisation for Abused and Battered Individuals;
- Trinidad and Tobago Carnival Bands Association;
- Trinidad and Tobago Promoters Association;
- The Modelling Association of Trinidad and Tobago;
- Caribbean Association of National Telecommunication Organisations (CANTO);
- Media Association of Trinidad and Tobago (MATT);
- Copyright Organisation of Trinidad and Tobago (COTT);
- Trinidad and Tobago Association of Psychologists;
- Southern Assembly of Lawyers; and
- Trinidad and Tobago Publishers and Broadcasters Association (TTPBA).

15. The Committee has also sought to make contact with the following stakeholders:

- International Criminal Police Organization (INTERPOL);
- The Network of NGOs of Trinidad and Tobago for the Advancement of Women; and
- National Organisation of Women.

16. Subsequent to its Third Meeting, your Committee also invited written comments from the Public Defenders Department, Legal Aid and Advisory Authority, with a deadline of Thursday February 10, 2022.

17. At its **Fourth Meeting** held on February 04, 2022, your Committee received oral submissions (in public) from the following stakeholders:

- (i) Office of the Prime Minister – Gender and Child Affairs;
- (ii) Ministry of Foreign and CARICOM Affairs;
- (iii) Ministry of Social Development and Family Services;
- (iv) Ministry of National Security;
- (v) Children’s Authority of Trinidad and Tobago; and

(vi) Trinidad and Tobago Creative Industries Company Limited (CreativeTT).

18. The Verbatim Notes of this meeting are attached at **Appendix II**.
19. In addition, your Committee noted its requirement to report by February 01, 2022. Given that its work schedule is ongoing, your Committee agreed to submit an Interim Report at the next available occasion, namely, the Sitting of the Senate to be held Tuesday February 08, 2022.

REPORT

20. Your Committee wishes to report that additional time is required to:
 - (i) receive and consider outstanding written comments;
 - (ii) conduct stakeholder engagement sessions as required;
 - (iii) commence a clause-by-clause consideration of the Bill; and
 - (iv) compile proposed amendments.
21. As such, your Committee is unable to submit its final report by the deadline of February 01, 2022.

RECOMMENDATION

22. Your Committee humbly requests an extension of time to continue its work and report by **March 31, 2022**.
23. During the period of extension, your Committee proposes to complete its consideration of oral and written comments, its clause-by-clause examination of the Bill and its preparation of proposed amendments, with the assistance of officials from the Criminal Justice Unit, AGLA and the Law Reform Commission.

Respectfully Submitted,

Sgd.
Mr. Clarence Rambharat
Chairman
February 08, 2022

Sgd.
Mr. Randall Mitchell
Member

Sgd.
Mrs. Renuka Sagrarsingh-Sooklal
Member

Sgd.
Ms. Jayanti Lutchmedial
Member

Sgd.
Mr. Paul Richards
Member

APPENDIX I

ATTENDANCE RECORD AND MINUTES OF PROCEEDINGS

ATTENDANCE RECORD
SPECIAL SELECT COMMITTEE ON
THE SEXUAL OFFENCES (AMENDMENT) (NO.3) BILL, 2021

Members	1st Meeting 14.01.2022	Rescheduled 2nd Meeting 25.01.2022	3rd Meeting 28.01.2022	4th Meeting 04.02.2022
Mr. Clarence Rambharat (Chairman)	√	√	√	√
Mr. Randall Mitchell	√	√	√	√
Mrs. Renuka Sagransingh- Sooklal	√	exc.	√	√
Ms. Jayanti Lutchmedial	√	√	√	√
Mr. Paul Richards	√	√	√	√

*exc- excused

abs- absent

**MINUTES OF THE 1ST MEETING,
2ND SESSION (2021/2022), 12TH PARLIAMENT,
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE SEXUAL OFFENCES (AMENDMENT) (NO.3) BILL, 2021
HELD VIRTUALLY ON FRIDAY JANUARY 14, 2022**

PRESENT

Committee Members

Mr. Clarence Rambharat	Chairman
Mr. Randall Mitchell	Member
Mrs. Renuka Sagrainsingh-Sooklal	Member
Ms. Jayanti Lutchmedial	Member
Mr. Paul Richards	Member

Secretariat

Mr. Johnson Greenidge	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Rebecca Rafeek	Procedural Officer (Intern)
Ms. Katharina Gokool	Graduate Research Assistant

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 10:02 a.m. and welcomed Members present.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 The Chairman referenced letter dated January 13, 2022 from the President of the Senate, in which, the President, in concurrence with Standing Order 85 (3) of the Senate, directed that the quorum of the Committee shall be three (3) Members inclusive of the Chair.

TERMS OF REFERENCE

3.1 The Chairman reminded Members of the Committee's terms of reference, viz.:

- i. to consider and report on a Bill entitled "The Sexual Offences (Amendment)(No.3) Bill, 2021"; and
- ii. to report to the Senate by February 01, 2022.

3.2 The Chairman also reminded Members that:

- i. In accordance with **Standing Order 67(1)** of the Senate, "*any Committee to which a Bill is committed after second reading shall not discuss the general merits and principles of the Bill, but only its details*";
- ii. In keeping with **Appendix III, Number 9** of the Senate Standing Orders on the General Rules for the conduct of proceedings of Committees, Members should inform the Secretariat of any Senator who wishes to attend Committee meetings to ensure that the leave of the Committee can be granted;
- iii. In concurrence with **Appendix III, Number 10** of the Senate Standing Orders on the General Rules for conduct of proceedings of Committees, "*the Minister or Member in charge of a Bill may take part in the proceedings of the Committee even though not a Member of the Committee but may not vote on any question put to the Committee.*"

Members took note of the relevant Standing Orders.

DISCUSSIONS ON THE WAY FORWARD

4.1 The Chairman confirmed that Members were in receipt of packages containing the following:

- i. A List of Members of the Committee;
- ii. A copy of the Sexual Offences (Amendment)(No.3) Bill, 2021;
- iii. Bill Essentials re: Sexual Offences (Amendment)(No.3) Bill, 2021;
- iv. The Hansard extracts of the debate on the Second Reading of the Bill dated Tuesday January 11, 2022; and
- v. A List of Possible Stakeholders re: Sexual Offences (Amendment)(No.3) Bill, 2021.

4.2 The Chairman invited Members to consider the List of Possible Stakeholders prepared by the Secretariat. After some discussion, the Committee agreed to request written submissions from the following stakeholders:

Government Agencies

- i. The Judiciary;
- ii. The Director of Public Prosecutions;
- iii. The Trinidad and Tobago Police Service;
- iv. The Trinidad and Tobago Prison Service;
- v. The Ministry of National Security;
- vi. Immigration Division;
- vii. Strategic Services Agency;
- viii. Office of the Prime Minister - Gender and Child Affairs Division;
- ix. The Children's Authority;
- x. The Ministry of Foreign and CARICOM Affairs;
- xi. The Ministry of Social Development and Family Services; and
- xii. CreativeTT.

Non-Governmental Organisations

- i. The Law Association of Trinidad and Tobago;
- ii. International Criminal Police Organization (INTERPOL);
- iii. Coalition Against Domestic Violence;
- iv. Rape Crisis Society;
- v. Caribbean Center for Human Rights;
- vi. The Network of NGOs of Trinidad and Tobago for the Advancement of Women;
- vii. Child Welfare League of Trinidad and Tobago;
- viii. Women's Institute for Alternative Development (WINAD);
- ix. National Organisation of Women;
- x. Womantra;
- xi. Feminitt Caribbean;
- xii. Institute of Gender and Development Studies, UWI;
- xiii. Organisation for Abused and Battered Individuals;
- xiv. Trinidad and Tobago Carnival Bands Association;
- xv. Trinidad and Tobago Promoters Association;
- xvi. Photographers and Videographers Association of Trinidad and Tobago;
- xvii. The Modelling Association of Trinidad and Tobago;
- xviii. Caribbean Association of National Telecommunication Organisations (CANTO);
- xix. Media Association of Trinidad and Tobago (MATT);

- xx. Copyright Organisation of Trinidad and Tobago (COTT);
- xxi. Trinidad and Tobago Association of Psychologists;
- xxii. Southern Assembly of Lawyers; and
- xxiii. Trinidad and Tobago Publishers and Broadcasters Association (TTPBA).

- 4.3 Members agreed to submit any other proposed stakeholders via email to the Secretariat.
- 4.4 The Secretariat was instructed to include in its letter to stakeholders that they may be invited to attend a stakeholder engagement meeting.
- 4.5 The Committee agreed to meet next on Friday January 21, 2022 at 1:30 p.m. to discuss the submissions from the following Stakeholders: The Director of Public Prosecutions, the Trinidad and Tobago Police Service and the Trinidad and Tobago Prison Service. The Secretariat was instructed to send invitations accordingly.

OTHER BUSINESS

- 5.1 The Committee agreed to:
 - i. engage Government stakeholders followed by non-governmental organisations; and
 - ii. request the assistance of the Law Reform Commission to conduct a presentation on the Bill, including an outline of the relationship between the Sexual Offences (Amendment) (No. 3) Bill, 2021 and the draft Cybercrime legislation.

ADJOURNMENT

- 6.1 The meeting was adjourned to Friday January 21, 2022 at 1:30 p.m.
- 6.2 The adjournment was taken at 10:30 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

January 24, 2022

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**MINUTES OF THE 2ND MEETING,
2ND SESSION (2021/2022), 12TH PARLIAMENT,
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE SEXUAL OFFENCES (AMENDMENT) (NO.3) BILL, 2021
HELD VIRTUALLY ON TUESDAY JANUARY 25, 2022**

PRESENT

Committee Members

Mr. Clarence Rambharat	Chairman
Mr. Randall Mitchell	Member
Ms. Jayanti Lutchmedial	Member
Mr. Paul Richards	Member

Secretariat

Mr. Johnson Greenidge	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Rebecca Rafeek	Procedural Officer (Intern)
Ms. Katharina Gokool	Graduate Research Assistant

Office of the Attorney General and Ministry of Legal Affairs

Mr. Faris Al-Rawi	Attorney General and Minister of Legal Affairs
Mrs. Farzana Nazir-Mohammed	Director, Criminal Justice Unit
Ms. Farah Abdool	Senior Legal Officer
Mr. Jason Dass	Legal Officer II
Ms. Ria Brereton	Legal Officer I
Ms. Nalini Ramjit	Legal Officer I
Ms. Janelle Smith	Legal Counsel II

Law Reform Commission

Mrs. Shireen Khan-Hyder Ali	Senior Parliamentary Counsel
Ms. Tamara Dookran	Law Reform Officer

EXCUSED

Mrs. Renuka Sagrarsingh-Sooklal

Member

CALL TO ORDER

- 1.1 The Chairman called the meeting to order at 9:35 a.m. and welcomed Members present.
- 1.2 The Minutes were confirmed on a motion moved by Ms. Jayanti Lutchmedial and seconded by Mr. Paul Richards.

ANNOUNCEMENTS BY THE CHAIRMAN

- 2.1 The Chairman advised that Mrs. Renuka Sagrarsingh-Sooklal asked to be excused from the meeting.

CONFIRMATION OF MINUTES OF THE 2ND MEETING HELD ON TUESDAY JANUARY 25, 2022

- 3.1 The Chairman invited Members to consider the Minutes page-by-page and inquired whether there were any amendments.
- 3.2 There being no amendments, a motion for the confirmation of the Minutes was moved by Ms. Jayanti Lutchmedial and seconded by Mr. Paul Richards.

MATTERS ARISING FROM THE MINUTES

- 4.1 **Per Item 4.2.** The Chairman informed the Committee that:
 - a. all stakeholders had been contacted with the following exceptions, as the Secretariat was unable to make contact with:
 - (i) The Network of NGOs of Trinidad and Tobago for the Advancement of Women;
 - (ii) National Organisation of Women;
 - (iii) Photographers and Videographers Association of Trinidad and Tobago;
 - (iv) Trinidad and Tobago Photography Society;
 - (v) Modelling Association of Trinidad and Tobago; and
 - (vi) Trinidad and Tobago Publishers and Broadcasters Association.
 - b. the Secretariat received written comments from the Trinidad and Tobago Prison Service which was circulated to Members via email on Friday January 21, 2022 and uploaded to the Rotunda; and
 - c. written comments from the Trinidad and Tobago Police Service and Office of the Director of Public Prosecutions remained outstanding and will be circulated to the Members once received.

PRESENTATION BY THE LAW REFORM COMMISSION

- 5.1 The following officials from the Office of the Attorney General and Ministry of Legal Affairs, the Criminal Justice Unit and the Law Reform Commission were invited to join the virtual meeting room:

i. Mrs. Farzana Nazir-Mohammed	Director, Criminal Justice Unit
ii. Ms. Farah Abdool	Senior Legal Officer
iii. Mr. Jason Dass	Legal Officer II
iv. Ms. Ria Brereton	Legal Officer I
v. Ms. Nalini Ramjit	Legal Officer I
vi. Ms. Janelle Smith	Legal Counsel II
vii. Mrs. Shireen Khan-Hyder Ali	Senior Parliamentary Counsel
viii. Ms. Tamara Dookran	Law Reform Officer

- 5.2 The officials from the Criminal Justice Unit and the Law Reform Commission presented an overview of the Bill, its relationship with the Cybercrime Bill and explanations of each clause of the Bill.
- 5.3 The officials from the Criminal Justice Unit and the Law Reform Commission concluded their presentation at 10:25 a.m. and the Chairman thanked them for their attendance.
- 5.4 The officials left the virtual meeting room.

DISCUSSIONS ON THE WAY FORWARD

- 6.1 The Committee agreed to meet next on Friday January 28, 2022 at 10:30 a.m. (in camera) and at 11:00 a.m. (in public) for the first stakeholder engagement session with the following entities:
- i. Office of the Director of Public Prosecutions;
 - ii. Trinidad and Tobago Police Service; and
 - iii. Trinidad and Tobago Prison Service.

ADJOURNMENT

- 7.1 The meeting was adjourned to Friday January 28, 2022 at 10:30 a.m.
- 7.2 The adjournment was taken at 10:26 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

January 27, 2022

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**MINUTES OF THE 3RD MEETING,
2ND SESSION (2021/2022), 12TH PARLIAMENT,
OF THE SPECIAL SELECT COMMITTEE (SENATE)
APPOINTED TO CONSIDER AND REPORT ON
THE SEXUAL OFFENCES (AMENDMENT) (NO.3) BILL, 2021
HELD VIRTUALLY ON TUESDAY JANUARY 28, 2022**

PRESENT

Committee Members

Mr. Clarence Rambharat	Chairman
Mr. Randall Mitchell	Member
Mrs. Renuka Sagrarsingh-Sooklal	Member
Ms. Jayanti Lutchmedial	Member
Mr. Paul Richards	Member

Secretariat

Mr. Johnson Greenidge	Secretary
Mr. Brian Lucio	Assistant Secretary
Ms. Rebecca Rafeek	Procedural Officer (Intern)
Ms. Katharina Gokool	Graduate Research Assistant

CALL TO ORDER

- 1.1. The Chairman called the meeting to order at 10:32 a.m. and welcomed Members present.

CONFIRMATION OF MINUTES OF THE 2ND MEETING HELD ON TUESDAY JANUARY 25, 2022

- 2.1. The Chairman invited Members to consider the Minutes page-by-page and inquired whether there were any amendments. The following amendments were made:
- **Items 5.1, 5.2 and 5.3, page 3** – insert the words “Criminal Justice Unit and”, before the words “Law Reform Commission”;
- 2.2. There being no further amendments, a motion for the confirmation of the amended Minutes was moved by Mr. Paul Richards and seconded by Mrs. Renuka Sagrarsingh-Sooklal.

PRE-HEARING DISCUSSIONS

3.1. The Chairman informed the Committee that:

- a. The following stakeholders confirmed their attendance for today's meeting:
 - (i) Trinidad and Tobago Police Service; and
 - (ii) Trinidad and Tobago Prison Service.
- b. The Office of the Director of Public Prosecution (DPP) indicated via email at 7:00 p.m. on Thursday January 27, 2022, that the DPP was not available to attend a meeting of the Committee until mid-February. The Committee agreed to invite the DPP to a later meeting.

3.2. The Chairman indicated that:

- a. The Secretariat was in contact with the DPP's Office and would provide an update on its written comments.
- b. The Trinidad and Tobago Police Service indicated by email dated January 27, 2022 that it was in agreement with the content of the Bill.
- c. The Trinidad and Tobago Prison Service made a submission to the Committee by letter dated January 20, 2022.
- d. Written comments were also received from the following stakeholders which were circulated to Members via email on January 27, 2022:
 - (i) Ministry of National Security; and
 - (ii) Ministry of Foreign and CARICOM Affairs.
- e. The Children's Authority requested an extension to January 28, 2022 to make a submission.

3.3. Members agreed on the approach to be taken during the public hearing.

OTHER BUSINESS

Interim Report

- 4.1. The Chairman reminded Members that the Committee was required to report to the Senate by February 01, 2022. The Chairman also informed Members that the Senate would not be sitting until February 08, 2022. Therefore, the Committee would continue its work in the interim and present its Interim Report at the sitting of the Senate of February 08, 2022.
- 4.2. The Committee agreed to submit an Interim Report to the Senate requesting an extension to **March 31, 2022**.
- 4.3. The Chairman advised that the Interim Report of the Committee will be drafted by the Secretariat and forwarded via email for Members' consideration and approval.

Next Meeting Date

4.4. The Committee agreed that the next meeting of the Committee be scheduled for **Friday February 04, 2022 at 10:00 a.m. (in camera) and thereafter 10:30 a.m. (in public)** with the following stakeholders:

- (i) Ministry of National Security;
- (ii) OPM - Gender and Child Affairs Division;
- (iii) Children's Authority;
- (iv) Ministry of Foreign and CARICOM Affairs;
- (v) Ministry of Social Development and Family Services; and
- (vi) CreativeTT.

SUSPENSION

5.1. The meeting was suspended at 10:43 a.m.

1ST VIRTUAL STAKEHOLDER ENGAGEMENT MEETING

6.1. The meeting resumed (in public) at 11:00 a.m.

6.2. The following officials joined the meeting:

Trinidad and Tobago Police Service

- | | |
|--------------------------|----------------------------------|
| • Mr. McDonald Jacob | Commissioner (Ag.) |
| • Ms. Sharon Cooper | Assistant Commissioner of Police |
| • Ms. Claire Guy-Alleyne | Superintendent (Ag.) |

Trinidad and Tobago Prison Service

- | | |
|-------------------------|-----------------------|
| • Mr. Dennis Pulchan | Commissioner |
| • Mr. Hayden Walcott | Chief Welfare Officer |
| • Mr. Mustaque Mohammed | Legal Officer |

Office of the Attorney General and Ministry of Legal Affairs

- | | |
|-------------------------------|---------------------------------|
| • Mrs. Farzana Nazir-Mohammed | Director, Criminal Justice Unit |
| • Ms. Farah Abdool | Senior Legal Officer |
| • Ms. Ria Brereton | Legal Officer I |
| • Ms. Nalini Ramjit | Legal Officer I |
| • Mr. Carl Esdelle | Research Officer |

Law Reform Commission

- | | |
|-------------------------------|------------------------------|
| • Mrs. Shireen Khan-Hyder Ali | Senior Parliamentary Counsel |
| • Ms. Tamara Dookran | Law Reform Officer |

6.3. A summary of the issues raised/comments made during the stakeholder engagement meeting can be found in the **Appendix**.

ADJOURNMENT

- 7.1. The Chairman thanked officials, Members, staff and the viewing /listening public for their participation in the proceedings.
- 7.2. The meeting was adjourned to **Friday February 04, 2022 at 10:00 a.m.**
- 7.3. The adjournment was taken at 10:43 a.m.

I certify that the Minutes are true and correct.

Chairman

Secretary

January 28, 2022

Summary of Issues Raised/Comments made during the Stakeholder Engagement Meeting

Issue	Details
The adequacy and clarity of definitions (private act, private part, share, store)	<i>TTPS's Response:</i> The TTPS generally does not have any difficulty with the definitions as they are an extension to that in the Children's Act Chap. 46:01 and Sexual Offences Act Chap. 11:28.
Whether the TTPS will encounter challenges with enforcing the law given some of the cultural practices that exist e.g. the taking and sharing of Carnival images	<i>TTPS's Response:</i> - There will be need to raise awareness on what is permissible especially as it relates to the cultural use of images; "Consent" will be based on the situation/circumstances; - The TTPS will be guided by its Legal Unit in addressing challenges as it pertains to "consent"; and - Apart from Statutory law, Case law will assist Officers with making decisions as it relates to charges under various circumstances.
The inclusion of "audio recordings" in the Bill	<i>TTPS's Response:</i> - The inclusion of audio recordings in the Bill would assist with compiling evidence cases, although it may be challenging to identify a person's voice in some instances and will require the relevant expertise and technology. - Cybercrime personnel are prepared to treat with audio recordings.
Whether Police Officers should be of a certain rank when treating with sensitive images	<i>TTPS's Response</i> The TTPS was of the view that it was not necessary for Police Officers to be of a certain rank for the following reasons: - Specialized Officers will be assigned to treat with such issues; - Within the Police Service there are checks and balances and Standard Operating Procedures were established and placed in the Departmental Orders; - At all levels in the Police Service there is supervision and action can be taken departmentally if a violation occurs; - The Cybercrime Unit would play an important role in treating with sensitive images; - Limiting the issue to a certain rank will result in further complications because of how units are structured; - The focus is not on rank but on Officers with the relevant expertise to perform the task; and - Officers with no less than 3 years of service are appointed to specialised units such as the Cybercrime Unit therefore only experienced Officers will be assigned to such tasks.

Issue	Details
Exceptions for law enforcement officers	<i>TTPS's Response:</i> ▪ Apart from the exculpatory section in the Bill, the procedural and reporting requirements on the activities of Officers that exists in the Police Service would assist to protect Officers from the possibility of being accused of acts of Voyeurism; ▪ The TTPS expressed concern over the word "reasonably" in Clause 5, proposed Section 22 A (3) (d); ▪ It is anticipated that queries on Officers committing acts of voyeurism in the conduct of their duties may arise initially. However, the operating procedures at the Police Service will assist to protect such Officers as any form of monitoring/observation would be linked to supervision and will be documented. ▪ The TTPS supports the need for Prison Officers to be granted exception as law enforcement officers. <i>Prison Service's response:</i> ▪ There is the need for Prison Officers to be granted an exception similar to law enforcement officers as it pertains to the taking/use/storage of intimate images of inmates, which are documented for identification and evidential purposes for example, intrusive searches, extensive DNA sampling of inmates, taking images of tattoos which may be located at private parts and sharing such intimate images of inmates with other law enforcement agencies. ▪ The Prison Service is not covered under (f) of the definition for "law enforcement officer". ▪ The Prisons Service has the relevant firewalls and IT provisions including an IT Department and Photography Department to keep private images of inmates safe.
The sufficiency of the penalty for a law enforcement officer guilty of an offence of voyeurism	<i>TTPS's response:</i> ▪ The penalty in the Bill for the offence of voyeurism is stiff. ▪ Even without the provision in the proposed legislation, there are penalties/consequences e.g. attached via the Police Service Regulations for officers who are found in breach of use/handling of private images. ▪ An officer found in breach of his use/handling of private images will also be subject to a higher sentencing threshold if found guilty, therefore, the penalties are sufficient.
Whether there has been an increase in use of technology such as cellphones with cameras by law enforcement officers that is likely to constitute a breach	<i>TTPS's Response:</i> ▪ There has not been an increase in breaches by law enforcement officers, however, there have been isolated instances. ▪ There have been increase in breaches by members of the public.

Issue	Details
	<i>Prison Service's Response:</i> - There have been no instances of prisons officers transmitting private pictures of inmates. - The Prison Service has challenges with inmates sending images of themselves externally, an offence which is governed by Interception and Communications Act, Chap. 15:08 and Prisons Act, Chap. 13:01.
Whether there is need for an additional clause to treat with breaches by law enforcement officers as it relates to unauthorized sharing of crime scenes/private images (not meeting the threshold of a criminal act)	<i>TTPS's response:</i> - There is no need for an additional clause to treat with breaches to the Police Operating Manual or Standard Operating Procedures. - There are legal provisions which treat with breaches by police officers including the Police Service Regulations, the Professional Standards Bureau, Complaints Division, TTPS. - Once a breach reaches the threshold of a criminal act it is dealt with by the courts as provided for in the Bill. - The issue of taking and sharing crime scene footage and other material for broadcast has been raised by the TTPS. The TTPS sought advice from the DPP in this regard. - An education training programme was implemented for Police Officers as it relates to the taking and sharing of crime scene footage and other materials for broadcast. - The Commissioner of Police has the power to dismiss a Police Officer from the Police Service who has committed a breach as it pertains to the taking and sharing of crime scene footage and other material. - There have been instances where Police Officers were found in breach of committing an act of voyeurism via the sharing of images and was dealt with by the courts. - The current arrangements to obscure law enforcement officers from abusing their powers are sufficient notwithstanding, the TTPS will not prevent the inclusion of any other provision in the Bill to deal with such situations. <i>Prison Service's response:</i> - There are strict laws for prison officers' guiding the use of cell phones. - The sharing of unauthorized footage of crime scenes should carry a stiffer penalty because it adds trauma to the lives of victims and their families. - The taking of unauthorized footage of police officers and crime scenes in the execution of duties by members of the public should be an arrestable offence and a stiffer penalty is needed.

Issue	Details
Sentencing	<i>Prisons Service Response:</i> ▪ The Prison Service is sorely lacking a mandatory rehabilitation programme. ▪ Consideration should be given to a mandatory rehabilitation programme for all persons committing a sexual offence. ▪ The Prisons Service is in need of adequate psychologists/counsellors. ▪ Where a period of counselling is recommended for a period longer than a prison sentence, it should be mandated that the counselling continue for the prescribed period. ▪ The Prisons Service supports mandatory psychological evaluation before sentencing as it would assist in determining an appropriate risk profile and treatment. <i>TTPS's response:</i> ▪ For adults who commit acts against children the TTPS was of the view that the penalties should be increased, as a hefty fine will act as a deterrence. ▪ Perpetrators who are children/minors should be subject to a different sentencing regime which would allow for fines that are less harsh and with more of a rehabilitative component. ▪ The TTPS supports the call of the Prison Service as it pertains to mandatory psychological testing of perpetrators. ▪ Profiling and Similar Fact Evidence assists in the prosecution of perpetrators.
The adequacy of the Cybercrime Unit	<i>TTPS's Response:</i> ▪ Although the Cybercrime Unit is short in manpower, it has the necessary capabilities (expertise and technology) to enforce the legislation. ▪ The Unit also has the assistance of the Research and Analytical Unit, which works in collaboration with the Cybercrime Unit. ▪ The TTPS also has the support of other law enforcement agencies such as the technological support of the Ministry of National Security to deal with issues related to cybercrime. ▪ The Unit may face challenges with finding the originator of the transmission of private images but that this is a challenge that occurs internationally as well.
The adequacy of the Chain of Custody of evidence	<i>TTPS's response:</i> ▪ The TTPS noted that they had a secure Chain of Custody with reference to the documentation of evidence and that evidence was not generally contaminated (except perhaps at the early evidence gathering stage). Most evidence was stored at a facility in Cumuto.

Issue	Details
Signage indicating Surveillance of premises	<i>TTPS's Response:</i> ▪ Signage indicating the surveillance of premises was generally seen to be a crime deterrent and thus an advantage.
Sharing of intimate images of a deceased person	<i>TTPS's Response:</i> ▪ The TTPS can look into charges for the sharing of intimate images of deceased persons. ▪ An officer can be charged departmentally for the sharing of an intimate image of a deceased person. ▪ Depending on the circumstances, the charges can run from the basic charge of publishing to discreditable conduct.

APPENDIX II

VERBATIM NOTES

VERBATIM NOTES OF THE VIRTUAL THIRD MEETING OF THE SPECIAL SELECT COMMITTEE (SENATE) ON THE SEXUAL OFFENCES (AMDT.) (NO. 3) BILL, 2021, HELD (IN PUBLIC) ON FRIDAY, JANUARY 28, 2022, AT 11.00 A.M.

PRESENT

Mr. Clarence Rambharat	Chairman
Mrs. Renuka Sagramsingh-Sooklal	Member
Ms. Jayanti Lutchmedial	Member
Mr. Randall Mitchell	Member
Mr. Paul Richards	Member

TRINIDAD AND TOBAGO PRISON SERVICE

Mr. Dennis Pulchan	Commissioner
Mr. Hayden Walcott	Chief Welfare Officer
Mr. Mustaque Mohammed	Legal Officer

TRINIDAD AND TOBAGO POLICE SERVICE

Mr. McDonald Jacob	Commissioner (Ag.)
Ms. Sharon Cooper	Assistant Commissioner of Police
Ms. Claire Guy-Alleyne	Superintendent (Ag.)

**OFFICE OF THE ATTORNEY GENERAL AND
MINISTRY OF LEGAL AFFAIRS**

Mr. Faris Al-Rawi, MP	Attorney General
Mrs. Shireen Khan-Hyder Ali	Senior Parliamentary Counsel (Ag.)
Ms. Tamara Dookran	Law Reform Officer (Ag.)
Mrs. Farzana Nazir-Mohammed	Director, Criminal Justice Unit
Ms. Farah Abdool	Senior Legal Officer
Mr. Jason Dass	Legal Officer II
Ms. Ria Brereton	Legal Officer II
Ms. Nalini Ramjit	Legal Officer II
Ms. Solange De Souza	Director Legal, Legal Services Unit
Mr. Carl Esdelle	Policy & Research Officer

11.00 a.m.

Mr. Chairman: Good morning. Welcome to the third meeting and the first public stakeholder engagement meeting of the Special Select Committee of the Senate on the Sexual Offences (Amdt.) (No.3) Bill, 2021. This hearing is broadcast on Parliament channel 11, Parliament radio 105.5 FM, and the Parliament's YouTube channel *ParlView*.

I am Clarence Rambharat, I am the Chairman of this Committee and I now invite my colleagues who are all Senators, this is a Senate Committee to introduce themselves.

[Introductions made]

Mr. Chairman: Okay, thank you very much. The Committee is also supported by a secretariat comprising Mr. Johnson Greenidge and Mr. Brian Lucio and we are also supported by the technocrats

from the Office of the Attorney General and Ministry of Legal Affairs and other agencies. I now invite the members who have accepted our invitation to be here, we have representatives from the prison service, the Trinidad and Tobago Prison Service and the Trinidad and Tobago Police Service. So, I now invite first the prison service led by the Commissioner of Prisons and then the Police Service led by the Acting Commissioner of Police.

[Introductions made]

Mr. Chairman: Okay. Thank you very much. I would invite the Trinidad and Tobago Police Service now to introduce themselves.

[Introductions made]

Mr. Chairman: Okay. Thank you very much, Commissioner. So, Acting Commissioner of Police, I would now invite you to make your opening remarks to be followed by the Commissioner of Prisons.

Mr. Jacob: So again, good morning to all who are participating, Mr. Clarence Rambharat, chairperson of this Joint Select Committee, Special Select Committee and all other distinguished members. I want to give thanks to you for the Trinidad and Tobago Police Service, giving us this opportunity to participate in this process as it relates to this important piece of legislation that actually targets towards the protection of vulnerable men, and women, and children in our society.

Looking at the stakeholders present today, it emphasizes the point that crime-fighting is everybody's business, and if we see something, we should say something. It is my hope that our contribution here today facilitates the proclamation of this important piece of legislation, and allows for the smooth transition into law enforcement in enforcing the law. That will not hinder law enforcement in its investigation, instead it will allow us to charge the perpetrators of these serious sexual offences and protect our citizens.

As we all know and anticipate with this legislation becomes to be more enforceable it will certainly be an essential tool in the fight against crime and to protect the communities. We also believe that it will add serious legitimacy to the police because most of these reports when made to the police, there is an expectation by the victims that the police respond, and respond in an effective manner. The legislation will put us in a position that we can provide that service that is required to our citizens, and that sort of confidence that is required in the police service will be enhanced.

So again, on behalf of my team here we are prepared to assist and contribute to this process this morning so that we can help to protect and serve the vulnerable as was mentioned earlier. Thank you very much.

Mr. Chairman: Thank you, Acting Commissioner of Police. I now welcome the Commissioner of Prisons to make your opening remarks.

Mr. Pulchan: Thank you, Mr. Chair, members of the Committee, all protocols observed, pleasant morning to you all. I want to say that this is a wonderful piece of legislation introduced. It shows our country's maturity with respect to treating with offences of a serious nature. It also deals with the protection of a child, which is particularly important to our country.

I dare say that I am a bit concerned, as you know we have the police doing detection, arrest, the courts will do sentencing, but there comes a very important part which is rehabilitation and that is where that falls in the jurisdictions of the prisons. What is unique at this point in time is that we need to beef up or rather look for more robust retraining rehabilitation programme at a professional level to deal with persons who would have been convicted of sexual offences. The regular treatment— they will require unusual treatments or more professional treatment than what gives in the prison service today.

I am also concerned on the legislation the list of persons and agencies that are being considered law enforcement officers. The prison service was not included in that list because of the fact that—I do not know. But what I will like to see is prison officers included in that list because of the fact that we

now have to do extensive DNA sampling of inmates, we have to do intrusive searches of inmates that may affect us in the performance of our duties. So, it is something that I am throwing out there for consideration. Other than that you have the prison service's full support and my officers stand by, and we are very happy to be here today to support in any way and contribute in any significant way for this meaningful legislation. Thank you.

Mr. Chairman: Thank you very much, Commissioner Pulchan and we appreciate what you have highlighted. Now, the purpose of this Committee—the debate on this Bill was completed in the Senate and the Committee was appointed to engage stakeholders including the stakeholders who are before us today, and those who would be before us later on, and those who would make submissions in writing. Even members of the public who are following. We have not made a formal call for submissions from the public as yet, but members of the public who are listening or viewing can indicate or join. Even if it means joining the chat on social media to indicate your thoughts, because a lot of important things in relation to the public interest would be discussed.

Now, I want to open up now to the other members of our Committee, and I want to say that in relation to two of my colleagues, Sen. Richards from the Independent Bench in his contribution in the debate raised a number of issues, including the issue of private acts for example, in a public place, the issue of rehabilitation which Commissioner of Prisons you have raised, rehabilitation and other matters relating to some of the detailed aspects of the Bill. But one of the areas Sen. Richards raised was the issue of rehabilitation.

And then, in connection to what both the police and the prison service are engaged in, Sen. Lutchmedial in her contribution raised a number of issues including the issue of sentencing, and the recommendation that at the point of sentencing the consideration should be given to reference or referring the accused for a psychological or other professional assessment. And Sen. Dr. Varma Deyalsingh the Independent Senator, on the issue of sentencing, also raised the possibility of in addition to fines and compensation, the possibility of bonds, a person being put on a bond. And one interesting one was the person being prohibited from use of or access to the Internet for a prescribed period.

So I now invite first Sen. Richards, to be followed by Sen. Lutchmedial.

Mr. Richards: Thank you, Chair. Good morning everyone. Thank you to the stakeholders who are with us today. I will start with the Trinidad and Tobago Police Service Acting Commissioner Jacob. Commissioner—Acting Commissioner, I used the word Commissioner—do you have an issue with any of the definitions or does your team have an issue with any of the definitions as stated in the Bill presently? Including specifically, “private act...private part...and share or store...” in the context of the TTPS executing their duties in this intended law which readily deals with a very, very sensitive issue for the persons who would have been victims in the past but certainly whom this legislation is intended to protect? And if you could disaggregate the children's aspect versus the adult aspects of this kind of legislation please? That is the first question.

Mr. Jacob: Well, as you are aware this basically is an extension of our Sexual Offences Act that existed before, and some of the said terms and situations that exist here, also exist in those Acts. And in our normal enforcement over the years we had no significant issues so we do not expect in these circumstances. So when it comes to the definitions, and looking at it we felt that it was clear. In some instances there were some questions here and there, but when we go back to the notes at the beginning where it explained a lot, it cleared up a lot of issues that we had when we went through the legislation itself, the proposed legislation. So we do not have much issues in relation to the definitions that were used, and the whole aspect of private and public.

Mr. Richards: Now, what are your thoughts? And I know your—I think, is it Inspector Guy? Am I wrong?

Mr. Jacob: Guy-Alleyne.

Mr. Richards: Guy-Alleyne, sorry. If I am not mistaken, she is with the Gender Affairs Unit in the TTPS?

Mr. Jacob: Yes. She is sitting here with me.

Mr. Richards: Yes, I know. I am just trying to get her location in the service at the time. Given what you have been able to glean from the legislation, do you think that there will be challenges in the police executing this law effectively? Because while it is an amendment of the Sexual Offences Act there are expectations for some levels of privacy with persons with regard to taking of photographs and sharing of photographs and “private parts”—I am quoting from the Bill here in the definition:

“means—

- (a) the genitals...”—the—“...buttocks...”—“area...buttocks of a person;
- (b) the breasts of a female person, whether or not the breasts are sexually developed;”

In the context and:

“‘share’ means—

- (a) publish, distribute, transmit, stream, sell, make available or advertise;
- (b) sharing online, including...websites, via email, live-streaming or through private messaging services;
- (c) sharing offline, including through the post or distribution...”

We have entered a realm in the world where the digital domain is extremely pervasive in everyone’s lives. And if one takes the proposed definitions here to the natural conclusion in the context of Trinidad and Tobago, there are person who may not have a sexual gratification intention, but may be caught up by the law in some of our cultural practices in the country. And if you have given thought to that in terms of how you think the legislation can be adjusted to ensure that persons who do not intend to or who do not have a sexual gratification component as is intended by the law, are not caught unwillingly? For example, carnival photographs, carnival streaming, people who are scantily clad and their breasts, buttocks, et cetera, may be exposed to one degree or another and persons who are taking pictures and sharing or streaming may fall within the dynamics of the Bill.

Ms. Guy-Alleyne: Good morning again, Superintendent Guy-Alleyne here. Mr. Richards, you raised some really—you have my mind bubbling at the moment. Because when we look at the legislation it looks simple, and I am seeing where police officers during an investigation, we can follow the law because it is an extension of what we have before in the Children Act as well as the Sexual Offences Act. But you have brought some issues to the floor which can be entangled in this entire new law.

It means that as a society, the police, we would have to do a lot of—if the law goes forward in its current stage, it means that as law enforcement we would have to do a lot of sensitization to make our society understand the new law, and understand new behaviour within our society. So it appears as though the narrative within our society would have to be changed, and we have to be very cautious about our acts.

I see no problem with law enforcement conducting investigations relative to reports made and, you know, pursuing and following the law at this time.

Mr. Richards: There are parts of the law that also deal with police officers and their exemption from prosecution in the execution of their duties. Do you think, and this is for Acting Commissioner Jacob, do you think that these officers should be of a particular rank when being enabled with the powers to search particular suspects in terms of the digital storage of these devices, the apprehension of suspects who may be suspected of being guilty of contravening the law, and the storage and management of this sort of evidence because of the possible sensitive nature of some of this content? Should it be any rank or do you think there should be a particular rank level that is applied to this?

Mr. Jacob: It can be and should be any rank. But what is happening within the police service, we will have persons who are specialized for the purpose of carrying out that exercise. In the police service we have our check and balances and within the operations we in fact establish standard operational procedures which we place in our departmental orders. And if that is violated, you know, we can in fact take action departmentally to deal with the particular individuals.

At all levels we have a level of supervision and because we are dealing with the whole aspect of digital issues, we will have our Cybercrime Unit playing a very, very important role in relation to this aspect. So when we have these situations you will find that our Cybercrime Unit will be the persons responsible and they are the experts in the area. If we go to limit it to some, a rank, it will create numerous problems for us because the way how the unit is structured. You may have one inspector, you may have one First Division officer, and you have a series of Second Division officers. But we are not dealing with rank in this instance we are dealing with the persons with the relevant expertise. Right. And I just want to impinge on the question that was asked to Ms. Guy-Alleyne and one of the keys that we need to look at is the word “consent” that was highlighted in the Act.

So when we talk about persons in relation to the whole aspect of having the whole carnival events and things like that, the question, the word “consent” comes up there in inverted commas, and whether or not and there is an expectation that during the course of things persons will in fact record persons. However, you will have instances where things would happen that the person may not have planned that their—as you used the word “breast” may be exposed. That may not be the plan and someone did something unbecoming. Yes, we will have challenges there but we know that our legal persons will guide us accordingly, because everything is based on the circumstances and the situation. It not just clear-cut. And as I said, we are accustomed dealing with situations like that. And when we sit down and look at it, we are not even just guided by the statutory law before us, but also case law will assist us in making the decision. So it does not matter how we try to couch the legislation, it is just the foundation and this is where the case law and other authorities will assist us in making the decision whether or not to charge in different circumstances.

Mr. Richards: Before I refer to my colleague Sen. Lutchmedial, going back to the issue of the rank of the police officer, do you think a police officer who is just out of the Barracks just graduated from the Police Training Academy should be included in this sort of exercise given their possible inexperience, and the sensitivity of the content and the information and the types of situations that may be involved here?

Mr. Jacob: Well, in the first instance, according to our Standing Orders that no police officer without more than three years’ service cannot be really in a specialized section within—like to be in the Cybercrime Unit which might be the specialized unit to conduct such activities. So the question of someone just coming out of the training college having access to do that, it will be virtually impossible because we try not to put persons in specialized sections until after they have a certain amount of experience in the job.

Mr. Richards: Thank you. I defer to Sen. Lutchmedial at this time.

Ms. Lutchmedial: Thank you, and good morning everyone. Let me start off—let me get right down to the concern that I think would greatly affect law enforcement. I will start with TTPS. Commissioner, do you have any challenge with the exceptions and how they are worded? So if you have the Bill in front of you I will point you specifically to clause 5 and we are dealing with the new 22A subsection (3). Now, this deals with what we call the innocent infringers and of course, there is the exception created for law enforcement officers. Do you think that the way it is worded is sufficient to protect your officers from being accused of committing acts such as voyeurism and so on when they are performing their duties? Do you see any challenge arising for our law enforcement officers?—[Pause]—Let me—it

basically just says that where:

“A person does not commit an offence under this section if the acts that are alleged to constitute the offence are—

(a) performed by a law enforcement officer in the lawful execution of his duty;”

And then it goes on to say that—

“(b) carried out by an authorized person for medical, forensic, scientific or educational purposes;”

Now, I am thinking about undercover operations, monitoring, whether or not sometimes the police may be conducting surveillance and may engage in, you know, viewing someone without their knowledge for the purpose of—and it may involve viewing them in situations that are—well, they have an expectation of privacy. Do you think the section is crafted in a way that would protect the officers from being accused of acts of voyeurism?

Mr. Jacob: Yeah, but not just the section in itself, it is the procedural aspect that exists within the police service.

Ms. Lutchmedial: Right.

Mr. Jacob: And that is reason why we have things organized in a particular way and persons need to be supervised and things are documented. So if you are having an official exercise and it is organized and they will in fact be protected, you know. And we were looking at—we had some concern in relation to (d)—

Ms. Lutchmedial: “Um-hmm.”

Mr. Jacob: Because you know (d) talks about the:

“acts that the person reasonably believed...”

And we were dealing with the whole aspect of the reasonableness we were considering it, you know:

“...were necessary for the purposes of—

i) preventing, detecting, investigating or...crime;

(ii) legal proceedings; or

(iii) the administration of justice; or

(e) in the public interest.”

You know.

Ms. Lutchmedial: Yeah. So for example, as you mentioned that, the reasonableness, because that is such a—you know, subjective and results really in a court making that determination:

“...acts that the person reasonably believed...”

If for example, an officer is accused of let us say committing on act of voyeurism, that reasonable belief you are saying would be substantiated based on instructions coming from seniors and so on, and it is an official operation and all of that, right? In the absence of that type of formal instruction and, you know, a clear plan, do you think that officers who may be conducting surveillance or any type of monitoring on their own—I mean, in practical policing I am talking about, do you think that they may run into a problem if for example they might be following someone or following up a lead and commit an act of voyeurism or accused of committing an act of voyeurism?

Mr. Jacob: Initially, there may be a question would be raised, but all persons involved would have persons who we call handlers. Handlers are basically whether it is your Corporal, your Sergeant who must have knowledge of what is happening. Then your handler, I have to put it like in our terms, will be exposed. Meaning to say your handler now will come forward and say, yes I have permitted X, Y and Z. So initially, there could be a query but it will be handled in how we have things organized within our operations concerning surveillance and otherwise.

Ms. Lutchmedial: Okay. With respect to—well, this is really, this is something I guess I will throw out

to both yourself and the Commissioner of Prisons. If for example, someone with a predisposition for voyeurism or one of those types of—a penchant for taking photographs and sharing and so on. Let us just say someone like that exists or we find out, we do not detect them right away within the prison or police service, and they end up abusing that power and authority that they have by sharing these images or, you know, abusing the power to engage in this type of activity. Would you support a higher penalty for persons who are law enforcement officers who commit these acts not in the performance, legitimate performance of their duties?

Mr. Jacob: The penalties stipulated in the proposed legislation are quite stiff in relation, but remember this is a double situation for an officer. An officer if found guilty will definitely be out of the job.

Ms. Lutchmedial: Sure. “Um-hmm.”

Mr. Jacob: Right. So other than the stiff penalties that I am seeing here, there are other consequences, you know. So in that regard I will feel that it is in fact sufficient. And I do not believe that there is need to really increase the penalties per se. And also we had situations already where officers used their cell phone and actually made photographs of things—we had an example in Tobago, you know, and he photographed in fact an accused person who was hospitalized and sent it out and that person was charged and was in fact convicted right, even without this legislation.

Ms. Lutchmedial: “Um-hmm.”

11.30 a.m.

Mr. Jacob: Okay? So I am saying that we will, in fact, deal with things in a particular way and I do not see the necessary need—

Ms. Lutchmedial: Right.

Mr. Jacob:—to increase the penalties.

Ms. Lutchmedial: Just out of curiosity, could you just tell me, in that scenario you described, what was the offence that the person—the officer was charged with for taking and distributing the photographs?

Mr. Jacob: I will just ask my team around to help me because I cannot remember offhand. Yeah.

Ms. Lutchmedial: I just wanted to know that, you know—what else exists in the law that could—

Mr. Jacob: Yes, yes, yes.

Ms. Lutchmedial:—assist with these things in the event that it does not fall within here.

Mr. Mitchell: Jayanti?

Ms. Lutchmedial: Sorry.

Mr. Mitchell: Mr. Chair, Jayanti, could I just piggyback on one of your questions, please?

Ms. Lutchmedial: Sure, sure.

Mr. Mitchell: Just to ask, in your experience—and perhaps somebody else could answer—where an officer commits such a crime, would it be seen at sentencing if he is found guilty as an aggravating circumstance, so that he goes to the higher threshold in terms of penalty?

Mr. Jacob: Yes, definitely, that is what the person who is dispensing justice will take into consideration. Because when you look at the position that the officers hold and their responsibility, the magistrate or judge who is making the decision will take that into consideration in deciding what sanction is to be placed against the particular officer.

Mr. Chairman: Okay. Thank you very much, Acting Commissioner of Police and Commissioner of Prisons. I think my colleagues have brought the discussion to very, very important area. I myself made a note to engage both of you on this issue because law enforcement officers, particularly the ones that you are responsible for, can both be involved in the enforcement of the law and essentially that is how you see yourself, but can also be perpetrators and the jobs—maybe particularly police officers put themselves in a unique position to be both an enforcer and a perpetrator.

As somebody following the media and social media, I have observed where images are available

on social media of crime scene of things that ordinarily should form part of the gathering of evidence but the part of what we see on social media. So I think my colleagues, both Sen. Lutchmedial and Sen. Mitchell, are really getting to that point, one, of whether you see the need to have higher penalty or more serious sanctions for persons whose job it is to protect and serve and to enforce actually becoming perpetrators. That is the main question. But I want to ask both of you, Acting Commissioner of Police and Commissioner of Prisons, whether you have seen or have had to deal with an increase in the use of the technology, particularly, cameras—cell phones with cameras by law enforcement which are likely to constitute breaches of the expectation of privacy by citizens, including those who are incarcerated?

Mr. Pulchan: If I may, Mr. Chair?

Mr. Chairman: Yes, Commissioner Pulchan.

Mr. Pulchan: Yes, Sir. From the prison's perspective, I think we have had no cases where an officer would have used his cell phone to send images of any inmates on the outside. We, however, have a unique situation where inmates are actually sending images of themselves in various states on the outside. A glance at social network can reveal this. So while it is an offence, some people are actually committing an offence by sending images of themselves outside and that is governed under the Interception of Communications—under Prisons Act No. 13:01. So we have our challenges with that in that regard. But very rare we have any situation where an officer uses his cell phone to photograph an image of an inmate. There are strict laws governing officers and their cell phones in the prison and it is tightly enforced. So that is how our position on this matter, Sir.

Mr. Richards: Member, could I just add one to your question? Because something occurred to me when you were delivering your question. Can I go ahead?

Mr. Chairman: Yes, Sen. Richards, go ahead.

Mr. Richards: Following your question—and this is both to Acting Commissioner Jacob and Commissioner Pulchan. We have seen situations in the past where access to crime scenes, as you indicated, have resulted in live broadcasts of persons who are not part of the TTPS broadcasting information, interfacing with evidence on crime scenes and the question is: Does the Acting Commissioner and Commissioner Pulchan think there should be included some clause, although it may be a breach of the police operating manual or the prison operating manual and a breach of their standard operating procedure, to allow external persons some sort of access to these sort of scenarios and thereby facilitate some sort of breach of the law but themselves not using their devices or doing it themselves? Do you think that should be included here to capture those sorts of situations? So while they may run afoul with the police operating procedures and disciplinary issues within the police service, they may not be criminalized acts allowing that kind of unauthorized access.

Mr. Jacob: Well, basically the way how the—when you read the Act and how it is couched, once the police officer falls outside of—remember, we have our Professional Standards Bureau and we also have our complaints division. And if an incident occurs, the Professional Standards Bureau will first conduct the investigation and once it reaches the threshold for the criminal in violation of this proposed legislation when it becomes law, the persons will be charged and placed before the court. Because when you read it, you would see that it caters for those situations, in the sense that if a police officer went about and went outside of his normal duties and published or sent this viral anywhere and we have that evidence, he can be charged criminally. The only time it reaches and goes down to the threshold of the police complaints to deal with our Police Service Regulations where there are about three different areas within that regulations that cater for persons who publish items in that way, they will be charged departmentally.

So I strongly believe that the way how things are couched, we will be able to capture police officers who choose to cross the line in the circumstance. Right? I looked at the proposed legislation

and as far as I am concerned—the persons next to me may advise me otherwise. But as far as I am concerned, at this time, I am seeing where we will be able to capture situations like that if police officers choose to cross the line. Once they cross the line and they go into the criminal arena, they will be dealt with accordingly.

Ms. Lutchmedial: Commissioner, sorry, if I could just interject here. I think what Sen. Richards is asking, let me break it down in the simplest possible terms. There is an exculpatory section here for law enforcement officers who are performing their legitimate duty and they are allowed to do certain things. But what if they themselves are not doing it but they are permitting somebody else to do it? This is a country where you have people—police officers and wannabe police officers—who have live shows and they record things to go on their programmes. We have an evening show hosted by a police officer who uses unofficial camera footage to give his views and opinions on crime scenes—

Mr. Richards: And broadcasts it.

Ms. Lutchmedial:—others who are civilians who do so. And this is a situation now where we do not want all of these people to—for their personal gain, because that is what I believe it is, and financial gain—to be falling under this exemption. Will the police service have a challenge in terms of all of these persons and drawing the line? Where is the line going to be drawn in terms of performing your duties, the execution of your duties, allowing someone else onto a crime scene to participate in recording or to do whatever it is and with the, let us say, acquiescence of the police officer?

Mr. Richards: And, Sen. Lutchmedial, also partaking in the surveillance of what should be private acts exculpated for the police officers in the execution of their duty.

Ms. Lutchmedial: When what they are really pursuing might be a private aim for popularity.

Mr. Richards: And a personal gratification.

Mr. Chairman: Okay. Thank you, Members. And Acting Commissioner of Police, before you respond, I just want you to answer whether you have seen an increase in complaints by the public or in complaints generally in respect of the issue of police officers in conducting their duties, taking and sharing images which may constitute an interference with the privacy expectation of citizens?

Mr. Jacob: We have not necessarily seen an increase in relation with that aspect with law enforcement officers. We have one or two instances that were dealt with but what we are seeing in—why this Act—why this legislation is necessary, we are seeing that within—generally within the communities we are seeing that that is happening among our citizens other than police officers. So we have isolated situations in relation to police officers and law enforcement officers but we have a significant increase in that situation with persons coming to make reports to the police in relation to exactly what we are dealing with here. But we have not seen that significant increase to say police officers are doing it on a regular basis.

Mr. Chairman: Right. And the other point raised by my two colleagues, it is not directly related to the subject matter of this Bill, except insofar as it relates to taking and sharing and it is an overall concern. So the question they have asked is this practice of having access to information; having access to material; using your position to access the material to do recordings, to take images and among the many uses of it, use it in broadcast, is it something that has been raised before in the Trinidad and Tobago Police Service and is it something that is likely to engage your attention?

Mr. Jacob: It has been raised and we, in fact, were looking at it carefully and were getting advice from the DPP in some instances to guide us in relation to those sort of releases that may be even on that programme that they referred to. We had situations that we had to call in the host and speak with him because some of the some of the items may be evidential and may interfere with our investigations when it is released and placed out there and might affect the case later down the road.

So we have, in fact, run an educational programme within the police service for police officers

as it relates to that aspect. Right? And as I said, sometimes when they cross the line, the regulations—our Police Service Regulations, in spite of persons believing that the penalties are not strong enough but depending on the situation if it amounts to discreditable conduct, the Commissioner can dismiss someone from the police service as a result of some of those actions when they actually cross the line.

But again, as I said, there are instances where persons cross the line and they were charged criminally for those situations when they use the images in such a way, as stipulated in this legislation here, and police officers were charged and taken before the court. I asked my colleagues here to try to research so that I can actually refer to the cases and I will get it very soon so that I can refer it. So I want to assure them, if there is something else they believe that can be included in the legislation, that can add force to the situation in case law enforcement crosses the line, we will not at all do anything to prevent it. But on the surface from looking at it, we believe that it may be adequate to deal with those situations.

Mr. Chairman: Okay. But before I invite my two colleagues who have signalled, Sen. Mitchell and Sen. Richards, your references to training and education in the police service—and I am sure it applies in the same way to the Trinidad and Tobago Prison Service—I just want to refer very quickly to three areas raised by our colleagues, Senators, who are not on this Committee and invite your comments on it.

The first is in relation to matters raised by temporary Sen. Walker, Sen. Deyalsingh and Sen. Sobers, the issue of sentencing—and this may be of interest to the Commissioner of Prisons, in particular—the issue of sentencing and whether the Bill should really treat with offences relating to children by having more significant penalties than those relating to adults. That is on the matter of sentencing.

The second was raised by Sen. Sobers and other Senators on the issue of the Cybercrime Unit and something that always arises, whether the Cybercrime Unit is equipped to deal with the offences set out in this Bill. And Sen. Richards has also raised that issue and Sen. Sobers raised the issue of training because we hear references to training and the need for training and education.

And the third area was raised by Sen. Walker—temporary Sen. Walker and Sen. Sobers and this had to do with putting in this Bill a provision relating to—sometimes you see in certain public spaces, a sign or signage that says that these premises are under surveillance. And I wanted to know if you have an opinion on that, putting it into the Bill, that these premises are under surveillance and the legal consequences which flow from that.

So I will just invite both of you, Commissioner of Prisons and Acting Commissioner of Police, to comment on those three areas: sentencing; two, the ability or the preparedness of the Cybercrime Unit to deal with the offences created in this Bill; and the issue of making provisions for having signage, addressing the issue of premises/public spaces being under surveillance. Thank you.

Mr. Pulchan: Commissioner of Police, if I may, Chair, before I attempt to contribute in this last regard, there was something I raised my hand previously that I need to comment on, if you do not mind, with your permission, Chair?

Mr. Chairman: Yes. Please go ahead.

Mr. Pulchan: With your permission?

Mr. Chairman: Please go ahead.

Mr. Pulchan: Right. I want to support the Commissioner of Police in the fact that more rigid legislation, one; two, training and development of police officers. But I do share a concern and one of my concerns is—and I will bring it in an example. Recently, last year, one of my officers was shot in Siparia and footage of a three-year-old child was seen running hysterically. Before I was able to contact the family to explain to them that their loved one has passed, the image was all over social media and I am of the

strong view that instances of these should face a very stiff penalty because it adds trauma to the lives of victims and families out there.

My second point, there are times when police officers seem to be doing their job and in the execution of their duties, the civilian population seems to feel it is okay to put a cell phone on the face of the police officer without permission. And I think that should be an arrestable offence and some consideration should be given to a stiffer penalty on that because it makes the police officer's job much more difficult. So those are my two contributions to the previous discussion.

With respect to sentencing, I believe that consideration should be given to sentencing with respect to a proper rehab programme—a mandatory rehab programme, one that the prison service is in dire need of. I think that people who would have committed sexual offences should require professional counselling. This is one of the things we do not have in the prison service and it is sorely lacking. So it is an area of concern for me that we should have adequate counsellors and adequate psychologists to deal with the rehabilitation programme that when a person offends—commits an offence and comes to the prison, we must send them out a better human being than when they came in here or give them the opportunity for a behavioural change. So that is my contribution at this point in time, Sir.

Mr. Chairman: Okay. Thank you very much. And Acting Commissioner of Police?

Mr. Jacob: Yes, yes. Thanks very much, Chair. In the first instance, I want to deal with the last issue first in relation to the aspect of signs concerning a surveillance. Now, when you go abroad, you will see in a lot of instances that persons have, you know—in the United States and other places you have these signs but it is used in the context of providing a situational crime prevention measure in the sense that when persons are aware that these signs exist, it will or should act as a deterrent. In some instances, some people use it and they may not even have, in fact, proper working cameras at all but it just acts as a deterrent. And I believe that when you look at the law, I do not believe it will be causing any sort of distress or interference with the law if these signs are existing. It is something that we can, in fact, practise in Trinidad and Tobago because, as I said, it acts as a significant deterrent and under the whole aspect—under criminology they actually promote that, you know, as a significant deterrent for persons who may look to embark on dealing with any kind of deviant or criminal act.

The aspect of our Cybercrime Unit: our Cybercrime Unit, yes, they may be short of a bit of manpower but they in fact have the necessary expertise and technological support to deal with the situation and they are also enhanced by our RAU. We have a Research and Analytical Unit within the Trinidad and Tobago Police Service which basically is an upgrade of the Cybercrime Unit and goes a little deeper in dealing with all aspects of issues with cybercrime. I know a lot of persons may not be aware of that Research and Analytical Unit but it is a unit that was formed about two years ago and it works hand in hand with the Cybercrime Unit.

Also, the Trinidad and Tobago Police Service has support from other agencies within the law enforcement where there is in fact other technological support. The software that we use and some of the very expensive licences, I have to say, that is maintained is even given support through the Ministry of National Security in order that—and some of our international partners to ensure that we are able to deal with the issue of cybercrime in Trinidad and Tobago. So I believe that we are there. As I said, they may need some additional manpower but we are up to our game when it comes to the technology.

As it relates to the sentencing, I will pass it on to Ms. Superintendent Guy-Alleyne who will deal with the aspect of sentencing concerning young persons. Ms. Guy-Alleyne.

Mr. Chairman: Okay. Thank you very much, Commissioner of Police. Superintendent Guy-Alleyne.

Ms. Guy-Alleyne: Thank you very much, Sir. When it comes to the sentencing for perpetrators that are adults and the victims are children, we would really like to see an increase in the penalty. Children are one of the most vulnerable in our society and we have a responsibility to protect them. So with the hefty

finer, it would act as a deterrent to “would be” perpetrators in Trinidad and Tobago.

Another consideration, if the perpetrator is a child, a different penalty and different circumstances should be laid down by the courts when it comes to a child as a perpetrator. So in a child perpetrating, we would like to see where the fines are not so hefty and there is a sort of rehabilitation and a process to bring that child back into society where that child would not be recommitting these acts.

Mr. Chairman: Okay. Thank you very much. What I want to do now is we have three of the Committee members. I would ask each of them to ask their closing questions or have their closing reflections and then I would ask the Commissioner of Prisons and the Acting Commissioner of Police to make their closing remarks. So after each member makes their intervention, you will have the opportunity to respond. We will start with member Mitchell, followed by member Richards and then member Lutchmedial. Thank you.

Mrs. Sagrarsingh-Sooklal: Chairman—

Mr. Mitchell: Thank you very—

Mrs. Sagrarsingh-Sooklal: Respectfully, Chairman, if I may also be given an opportunity? Member Sagrarsingh-Sooklal.

Mr. Chairman: Yes, sure. We would start with member Mitchell.

Mr. Mitchell: Yes. Thank you very much, Chairman. Chairman, please permit me to go back to the issue of sharing of crime scenes. In my understanding, unless clarified, there is a bit of a lacuna. Now, with respect to the sharing of these crime scenes, that could be very macabre and that also share the private parts of the victims, many of these victims—these persons are deceased and therefore, they may not fall within the confines of the law. So to the Commissioner of Police, Acting, would the Commissioner of Police—because I am hearing him talk about discreditable conduct without really specifying an offence. Would the Commissioner of Police agree to an amendment of the law where the sharing of the intimate image, that is the private parts of this victim, deceased, fall for consideration within this law?

Mr. Jacob: Well, in responding, in the first instance when we had a situation where the person was in fact alive, we had charged for malicious publishing under the Libel Act, section 8, right?—16, we had charged the person when I referred to the incident, that is in relation in Tobago. And that person was all also subjected to our Police Service Regulations, as I mentioned, for publishing and releasing such information.

The question of dealing with the deceased persons that is a possibility that we can in fact look at. But even so, if it is done on this occasion, they will, in fact, be charged departmentally. And depending on the circumstances, it can run from the basic charge of publishing to the other aspect of amounting to discreditable conduct depending on the circumstances and the investigation that is done.

12.00 noon

Mr. Chairman: Okay. Thank you.

Mr. Mitchell: Thank you. Thank you, Chair.

Mr. Chairman: Thank you very much. A very important point raised by member Mitchell. Member Richards.

Mr. Richards: Thank you, Chair. Just a couple of comments before I pose my final question. I just want to put on the record that I disagree vehemently respectfully with Commissioner Pulchan that the public recording situations in the public space should be an arrestable offence. Very often those recordings have been able to provide clarity when there were police alleged—police abuses perpetrated. So I disagree with that vehemently. Under some circumstances this may be warranted but certainly not in our circumstances, public space is public space. Two, I am surprised to hear that the Acting

Commissioner said that there were situations where the broadcast of a content that may be evidentiary had to be dealt with behind the scene in terms of the content being broadcast and then guidance given about the issue of it being possible evidence, and that not being a process that is legally vetted before it is taken and broadcast internationally. So that is surprising to me.

And three, the question now is—and also I want to put on the record that children should be a totally different regime, and I think the hon. Attorney General spoke to this at some lengths in his presentation where these laws are concerned, where adults are concerned. And I agree with the rehabilitation that Commissioner Pulchan spoke about because voyeurism is a disorder in the DSM, the Diagnostic and Statistical Manual, and is subject to rehabilitative processes. So in many cases these people will come back in society and if they are not rehabilitated the likelihood of the offence reoccurring is very high because voyeurism is stated in the DSM as one of the most increasingly pervasive offences globally.

The question I have in closing is that—so rehabilitation to me is critical, it should be mandatory. And the question I have in closing is, it was a suggestion from, I think, Sen. Dr. Dillon-Remy, and I think temporary Sen. Walker, and someone else who escapes me now, that the legislation as projected does not have consideration for audio recordings—and it is Sen. Lutchmedial, it now comes back to me, that suggested that people may have distinctive voices and interactions that may be private and quite intimately intense, may be the subject of recording and sharing and have the same effect as a video recording being published, stored or shared, and if the Commissioner of Police thinks that—Acting Commissioner of Police thinks it should be included in this legislation because it can do the same damage as a video recording if released, shared or published. Thank you, Chairman.

Mr. Chairman: Thank you.

Mr. Jacob: *[Inaudible]*

Mr. Chairman: Commissioner of—

Mr. Jacob: *[Inaudible]*

Mr. Chairman: Go ahead.

Mr. Jacob: Yes, again, Chair, thanks. Yes, we believe that it can be included. It will be significantly helpful because we even go along to do, sometimes in some instances where the identifying of persons by the voice, you know, by voice recording and we believe it can assist tremendously because sometimes it may not be just the voice alone, it may be a combination. It may be the voice together with other aspects, putting together—to put together the evidence in order to charge the persons. Right? I just need to indicate that in some of these instances in gathering the evidence tend to be challenging and it really takes persons with the relevant expertise, even with the basic aspects of what we are talking about digitally. Because sometimes we will see footage by WhatsApp or other things and it is being forwarded, forwarded, forwarded, and then sometimes to find who is the original person, it tends to be challenging for the Cybercrime Unit with the work that they are doing. And someone will want to indicate, “Well, look, how the police and everybody is seeing this and the police is not doing anything?”, and the experts in the cybercrime, whether it is in Trinidad or international, will tell you of some of the challenges. And that is the reason why whatsoever evidence that we can get to put together to assist, whether it is voice and otherwise, we will advise that, yes, it should be included, although it will be a challenge because we will have to get that person with recording previously and thing to do the comparison and we will have to take it by an expert to say, “Yes, this is the voice of the person.” We will have to use other persons who have been interacting with this person for a period of time and they have to be willing to come forward in order to identify the person’s voice.

So I am just indicating, putting it in and having it there, it is not so simplistic to say, “We have it and it will”, it will take a certain amount of effort but we are prepared in that way in order to bring law and

order in Trinidad and Tobago. We are prepared to go the extra mile to deal with it and our cybercrime persons are in fact prepared to go that extra mile.

Mr. Chairman: Thank you very much. Commissioner of Prisons, do you have any views on this?

Mr. Pulchan: Yes, Sir. I want to say thank you to the members and you, Chairman, for allowing us to participate in this important discussion. I also want to say that one of the things we are looking at in sentencing—and Sen. Richards hit it on the nail head, is rehabilitation, and, you know, voyeurism is a disorder indeed and a person might receive probably a six months sentencing, but if we were to acquire a counselling period it may not be sufficient time to have that person properly counselled. So what I would like to say is that in the sentencing we would like to see that the training or the counselling continues for that person on the outside so he completes the training necessary for his rehabilitation; that is one area.

A second area that we are looking at, Sir, is the issue of the prison officers' protection under this new Bill, Act; law enforcement officers and while protections are afforded for law enforcement officers, it does not include prison officers and what I want to say is, prison officers do intrusive searches with inmates, it involves doing DNA test on inmates, so it could work against the—and it could work against the prison officers. So they need some level of protection and I would really love to see this included in this new Bill. Thank you, Sir.

Mr. Richards: Are prison officers required to take images and/or video of inmates in these searches or these interrogations?

Mr. Pulchan: Yes, Sir, they are required to do that for evidential purposes.

Mr. Mitchell: Well, therefore, would they not be covered in the definition, where the definition touches on:

“...any other agency...”—that are—

Sorry, I am trying to find it:

“...any other agency...”—that—

“a member of any other agency of the State in which investigative and intelligence gathering powers, similar to those exercisable by a police officer...under the Police Service Act, are lawfully vested;”?

Would you be covered under that?

Mr. Pulchan: I do not think we will be covered over that because it says on—the exercises, the powers of a police officer. The prison service does not enjoy the powers of a police officer, so that is my intention to have it included.

Mr. Chairman: Thank you—

Ms. Lutchmedial: Now—

Mr. Chairman: Sen. Lutchmedial, before I invite you, thank you very much, Commissioner of Prisons, for raising two—I realize that you were doing your closing comments and responding at the same time, that is fine. So we have taken note of your two—those are two very important areas; one we raised in the debate, rehabilitation, and raised in relation to sentencing too, and the second one is one that you have raised that was not raised in the debate—I do not recall it—in the designation of prison officers as law enforcement officers for the purpose of this Act and making sure that it is specified. So I now invite my colleague, Sen. Lutchmedial.

Ms. Lutchmedial: Thank you, Chair. Well, firstly, I just want to make a comment and I want to endorse exactly what Sen. Richards has said that, you know, the public being able to tape things that happen in public spaces whilst—but I find it unfortunate that, you know, it might be viewed as obstructing police officers in the execution of their duties and that it should be an arrestable offence. That is a layer of protection that the public enjoys and I—you know, police officers also enjoy it too because I have seen

police officers put out their own version of events via recordings on their own cell phones, and with the introduction of body cameras which we eagerly await, from the police service, that would be their level of protection. So we have to balance those scales. So that is just a comment on something that would have arisen.

Let me deal with the issue of the prison service being considered a law enforcement agency. You raised specific examples, Commissioner, of having to take samples and so on, intimate samples, and all of that, but this Bill is really dealing with someone who—you are conducting monitoring or you are taking something without consent, images without consent and sharing it or sharing images that were even taken with consent. Now, a person is not entitled once they are in your custody to object really to images being taken—and photographed—if it is of course that the—it is necessary for the purpose of them being in prison. I do not know that you have to take intimate images unless it is, you know, a medical examination and you are required for evidential purposes, but in any event I think that would be covered. I think that with respect to the voyeurism aspect if it is that the prison service do—does the prison service have a requirement that they need to conduct video surveillance within the prison that may include areas where persons enjoy privacy, like showers and so on, that I can see the issue arising there, that perhaps there may be need to carve out an exemption for law enforcement officers, prison officers to be exempted from it if they are doing it in those circumstances.

But let me ask you a question coming out of that, does the prison service have sufficient capacity to ensure that this data is stored in a manner that is secure so that it is not shared because the last thing we want is a Facebook live video of inmates taking showers or committing private acts in the shower as may be the case sometimes. You know, there are a multiplicity of things that perhaps occur within prison walls that may be subject to video surveillance and, you know, do you have the capacity? So that is my first question. The second one that I wanted to—that I think you have kind of answered, but would you support—and I just want to couch it based on what you all have said about rehabilitation and so on, would you all support—and this goes to the TTPS as well—mandatory psychological evaluations before a sentencing for any of the offences committed under this law? Not just for voyeurism, that is a precursor to other things, but also perhaps the—you know, if someone is engaging in behaviours where they seek to slut-shame someone by sharing intimate images after a break up and all of that, would you support mandatory psychological evaluations as part of the sentencing process to be included in this Bill?

Mr. Pulchan: Thank you very much, Senator. I think I will and I think it is in all best interest to have mandatory psychological sentencing. It would give us an idea and it will help with our assessment process in the treatment of the inmates. So if we have information coming to us based on an assessment that was done at a different level, it could give us an opportunity in attending to the needs and the risk level of the individual. It also will give us the opportunity to place that individual in a location that, you know, it would be safe for him and those around him. So that is—yes, I support that. And your second question I believe would have been video, storage or storage of—

Ms. Lutchmedial: Yeah, the capacity to keep these things safe—

Mr. Pulchan: The capacity—

Ms. Lutchmedial:—without having leaks and so on.

Mr. Pulchan: We do have a photography department, we do have an IT department and we do have our various firewalls in place to protect the data that is stored there. But let me just add one more thing, sometimes persons come into the prison system with tattoos at various parts of their body and we are required for identification purposes to photograph these tattoos. It is in this context I am speaking of for the protection of the prison officer.

Ms. Lutchmedial: And sometimes you may have to share that with other law enforcement agencies and so on, like let us say—

Mr. Pulchan: Definitely, we would have to.

Ms. Lutchmedial: Okay.

Mr. Pulchan: Definitely.

Ms. Lutchmedial: So I think we perhaps could look at the—even if it is in a limited way if we need to create some exemptions for prisons. Yeah. Okay. Thank you so much, Commissioner, that was helpful.

Mr. Pulchan: Thank you, Senator.

Mr. Chairman: Thank you. Thank you very much. And our last member, Sen. Sagramsingh-Sooklal, I now invite you to ask your closing question.

Mrs. Sagramsingh-Sooklal: Chair, I just want to apologize for my outburst, I forgot the “raise hand” feature. Anyway, that being said, as it relates to the Commissioner of Prisons, you know, I would have listened to some of the concerns, not just made but the earlier comments, and, you know, I just want to remind respectfully, or put on the record respectfully that this is indeed a Sexual Offences Bill and of course many issues that were raised, respectfully I submit that it falls within the ambit of cybercrime and that is why, you know, unfortunately this is not a cybercrime legislation. So when we are looking at putting safeguards in this Bill as it relates to sharing of certain images and all of that, we have to remember that at all times it is limited to the scope of the Bill that appears before us which is a sexual offences Bill and not a Bill that relates to all offences that may be created in a cyberspace. So that is just one of the first things that I wanted to say.

Now, Chair, through you, I know—well, the Commissioner of Police Acting would have focused a lot—and a lot of questions would have come to this Committee relative to evidence and the leakage of evidence—and not just evidence but images that the police may have. Commissioner, respectfully, I believe, in the interest of the public, in my previous incarnation of course as a defence counsel, I would have been exposed to understanding the chain of custody of evidence when it comes to the police and the layers of protection that that chain of custody provides. And the protection I am talking about is a—systems that are in place within the police service as it relates to the custody of evidence that prevents the leakage of that evidence into the public domain. Because, of course, some of the concerns would have been, “Okay, we have intimate images that are held by the police, we have videos, and that being released”—maybe just for the benefit of the public who is listening on, if you could just briefly reiterate the chain of custody of evidence so that at least the public understands that through this chain of custody there is a layer of protection as it relates to the evidence and it not going out there where persons have access, you know, anybody could just have access to it. That is of course if time permits and of course if the Chairman is minded to allow that question.

And that being said, I know a question was also raised relative to audio recordings, what I do know is that we have in America—I know Sen. Lutchmedial in her contribution when she would have proposed the audio recordings, she would have mentioned that at the debate in the Senate, she would have looked at America, and I, myself, after that contribution I would have looked because it was something that I am also, you know, minded to support, but I know South Carolina, Delaware and Indiana, for example, there are audio recordings that are included in their legislation as it relates to voyeurism and so on, and I know the Commissioner of Police was mentioning his concerns and challenges as it relates to audio recording. But what I can just add to your concerns or just add is that I know that there are comparators that if we do decide to look at audio recordings and include it in the offences in this Bill, there are, you know, comparators that do exist that could probably and possibly guide us in making that inclusion. So, Chair, I know time is of the essence and that is just my—*[Inaudible]*

Mr. Chairman: Okay. Thank you. Thank you very much. I want to ask you, Commissioner of Police, you engaged us on a wide range of issues, I would ask you to make your closing comments now taking into consideration what Sen. Sagramsingh-Sooklal has just raised, in particular whether—you know,

whether you are satisfied with the way in which this sort of material is handled within the police service, whether you believe there is an opportunity to improve, particularly as it relates to the expectation of privacy of the citizens of the country particularly when data or information may be in the hands of police officers. So I ask you to make your closing comments and to address that particular issue if you can. Thank you.

Mr. Jacob: Thank you again to all and Chair. It is very, very important for us to recognize that the Trinidad and Tobago Police Service jealously protects the whole aspect of the chain of custody which is the core aspect in us presenting evidence before the court and if that chain is broken, most of our time the case is broken. So it is totally necessary that we guard it. Some of the situations that we will have is in the early stages at the gathering of evidence. Our crime scene officers, our cybercrime officers, they operate under particular guides in relation to our standard operational procedures and how things should be documented and move from one step to the other. In fact, in order to enhance that process, recently we established a one-stop shop at our main centre at Cumuto and the basic reason for setting up that one-stop shop is that officers will not have to take particular exhibits or even with the process to take it from one place to the next, from one area to another area in order to get all the testing done. It would be done under one roof with a one-stop shop and that is also to maintain that chain of custody.

The Cybercrime Unit and the RAU have their methodology that they use and I cannot say within recent time at all to hear that particular evidence that came into their custody was late. As I said, most of the issues is at the beginning of the particular circumstances or situation someone may record some information and send it out in the earlies. Once it comes under the control of our officers, it tends to remain there because it can affect our cases easily. Again, our special victims department which consists of our Child Protection Unit consists of our gender unit and the Sexual Offences Unit has been established for exactly what you all are talking about where the officers are trained and with a certain level of expertise and that is the reason why we support the call by the Prison Commissioner in relation to the psychological testing. And these officers will in fact make note and they do the interim assessment and screening of these perpetrators and that documentation is taken and can continued through the case to assist at the end of the day in helping with the whole aspect of sentencing and the sort of treatment that persons should be met with.

Ourselves now are constructed in a particular way, and I think a special select committee from the Parliament was involved in that aspect also, that even our CCTV cameras cannot in fact access the areas where our detainees and prisoners are—they may be taking a shower or so, you cannot access where the CCTVs are. So we view that in a particular way to deal with that aspect of the recording which will link to this legislation. We also have the situation that we are required to take photos, intimate photos of persons who are gang leaders or so, if they have tattoos and other things because it goes to the aspect of putting together our evidence to prove that there is in fact some sort of gang affiliation which is identified by these tattoos, and at least the law in this sense is in fact protecting us and we want to support the prisons in that regard.

The other aspects that we pay a lot of attention to is where we look at—we do profiling; not in a negative way—I know some people when I use the word “profiling”—but some of these perpetrators may have in fact a pattern in how they operate and the profiling of them tends to help and we try our best to utilize the whole aspect of similar fact evidence to help in the prosecution of these persons. So we are looking forward for this legislation to become law and we know there are some simple amendments that can be made to enhance it and again we are in support of it, and especially our special victims unit is looking forward for this because it will assist them tremendously and assist the police service. As I said at the beginning, I would come back to the police legitimacy and the confidence because numerous reports are made to us concerning these particular issues and we are unable to respond effectively because the law

in itself is not there to support us and this legislation would assist us in dealing with it and providing our citizenry a better service. So again, we want to thank Chairman and all who were involved in putting together this legislation and we are looking forward for it to become law. Thank you very much.

Mr. Chairman: Thank you very much, Acting Commissioner of Police. I want to first thank both the Acting Commissioner of Police and the Commissioner of Prisons and your respective teams for attending and participating in such a very important manner bringing your experience to bear on the discussions. I want to thank my colleagues on this Committee for their insightful contributions and comments and questions. I want to thank the members of the media, following and reporting on today's proceedings; the Law Reform Commission representatives and other representatives from the Office of the hon. Attorney General; our parliamentary staff, both those in the Secretariat and those in IT in particular, providing the important technical support in these hybrid meetings that we have. And most importantly, I want to thank the viewing and listening audience who have followed and will follow on the rebroadcast and they will also continue to make comments on our social media pages.

We have taken note of what has been said, and I want to say, Commissioner of Prisons and Acting Commissioner of Police, that you have the opportunity to make further submissions in writing in respect of matters which have been raised today or matters which you believe you should address. I know you have not provided all the expertise and experience that you could have in terms of this broadcast but you would have the opportunity to make submissions if you wish to do so. And with all of that said, I want to adjourn this meeting at this time and thank you very much.

12.29 p.m.: *Meeting adjourned.*

