

34th
ANNUAL REPORT



TRINIDAD & TOBAGO
OFFICE OF THE OMBUDSMAN

2011

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OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

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2012

Honourable Speaker
Office of the Parliament,
Tower D, Levels G-7,
Port-of-Spain International Waterfront Centre,
1A Wrightson Road,
Port of Spain.

Dear Mr. Speaker

I have the honour to present the *Thirty-Fourth Annual Report* of the Ombudsman for the period *January, 2011 to December, 2011*.

The Report is submitted pursuant to Section 96 (5) of the Constitution of the Republic of Trinidad and Tobago.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Lynette Stephenson'.

Lynette Stephenson, S.C.
OMBUDSMAN
Republic of Trinidad and Tobago

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“The restructuring of government and the evolving nature of government business practices have impacted on the nature of complaints received by the Ombudsman and have broadened the scope of our investigations.

The Office must cope with these changes on all fronts if it is to remain relevant and useful to the public it serves.”

LYNETTE STEPHENSON, S.C.
OMBUDSMAN
REPUBLIC OF TRINIDAD AND TOBAGO



Foreword

The Trinidad and Tobago society has changed enormously in the past ten years and the pace of change in the country continues unabated. The restructuring of Government and the evolving nature of government business practices have impacted on the nature of complaints received by the Office of the Ombudsman and broadened the scope of its investigations. There exists, at present, a heightened, educated awareness of the country's changing needs, and a higher level of expectation, by citizens, of better service and improved decision-making processes within the Public Service.

The Office of the Ombudsman must accept and manage these changes on all fronts if it is to remain relevant and useful to the public it serves. In order to meet this challenge, the institution must both affirm its legislative powers and adapt its oversight activities to current expectations.

The strength of an institution rests, without doubt, on its organisational framework and the manner in which its officers and other personnel follow through on established systems and processes. The Office of the Ombudsman continues to seek to adhere to its vision of eliminating bureaucratic injustice and promoting high standards of governance and efficiency in Government Ministries and Departments, Statutory Authorities and other Public Sector institutions.

During the period under review, January 1, 2011 to December 31, 2011 the Office conducted investigations into 3,378 administrative complaints. Our main goal in the course of each investigation was to bring some measure of immediate relief to Complainants, where possible, or steer both sides towards a compromise position in the interest of both the individual and the Government agency concerned.

There can be no diminution in the efforts of this Office in exercising its core purpose of protecting the fundamental and human rights of the individual in relation to complaints against Government Departments and Agencies.

I wish to take this opportunity to sincerely thank my Executive Officer, all Investigators, Head Legal, members of staff, and other stakeholders who contributed in various ways to the work of the Office during the period under review and to the production of this Report, and look forward to their continued commitment to the aims and objectives of the Office of Ombudsman.

Ms. Lynette Stephenson, S.C.

Ombudsman

Republic of Trinidad and Tobago



Summary

Summary Of The 34th Annual Report

1. The Thirty-fourth Annual Report of the Ombudsman of the Republic of Trinidad and Tobago provides a description of the work and related activities undertaken by the Office of the Ombudsman during the year 2011, and offers recommendations for addressing some of the more pressing problems that beset the administrative decision-making practices of public service agencies in the country and lead to negative consequences for citizens.
2. In addition to discharging the statutory reporting requirements stipulated under the Ombudsman Act Chapter 2:52, this Report highlights issues that are considered to affect the quality and standard of public administration in Trinidad and Tobago, as well as the most common causes of complaint and the need for specific improvements and/or changes in legislation, rules, and operating procedures. Also included in the Report are statistics which show how the Office handled complaints received in 2011, as well as those which were brought forward from previous years. Additionally, I have highlighted summaries of certain cases which I consider to be important in focusing attention on widespread bureaucratic weaknesses that need to be addressed.
3. The following challenges for public service administration were identified:
 - The failure, by Ministries/Departments and other Public Sector agencies, to respond in an expeditious manner to requests for information, or to take appropriate action to close an investigation.
 - The failure, by Public Sector agencies, to respond expeditiously to citizens' requests for information under the provisions of the Freedom of Information Act.
 - Administrative delays in processing approval and other services that have statutory [time] limits built into specified Acts.
 - In respect of persons who are incarcerated, delays in obtaining early trial dates and notes of evidence, and in having appeals heard.
 - Complaints about general prison conditions.
 - Poor record keeping, resulting in:
 - *inaccuracies in the computation of officers' terminal benefits and subsequent delays in the payment of retired persons' pensions and gratuities;*
 - *overpayment of salaries, resulting in reductions in retiring officers' terminal benefits when said overpayments had to be deducted.*
 - Narrow and/or restricted levels of authority granted to Heads of Department and other senior office holders that limit their capacity to make administrative decisions that negatively affect citizens.
 - Delays, by public officials in responding to citizens' requests for information under the Freedom of Information (FOI) Act.

Summary Of The 34th Annual Report CONT'D

4. As a means of addressing the challenges outlined above, I offer the following recommendations. In respect of:
- Delays, by Ministries/Departments and other Public Sector agencies, to respond in an expeditious manner to the Ombudsman's requests for information, or to take appropriate action to close an investigation:
 - *Senior public service officials must be provided with information about the role and functions of the Office of Ombudsman and their responsibility for facilitating the resolution of citizens' problems. I accept this responsibility as mine and shall discuss my proposed activities later in this document;*
 - Administrative delays in processing approval and other services that have statutory [time] limits built into specified Acts
 - *Staffing should be increased to address the increase in the organisations' responsibilities in the years since the relevant Acts came into being and, where necessary, the legislation should be amended to provide for more realistic statutory time limits for processing;*
 - The delays and other conditions that affect persons who are incarcerated:
 - *Prison Service and judicial authorities must take the necessary action to manage the concerns of such citizens to minimise the need for the Office of Ombudsman to become involved in what are, assuredly, matters internal to the organisations;*
 - Poor record-keeping by public agencies:
 - *Greater attention must be paid, by managers and supervisors, to the work activities of the officers charged with responsibility for documenting information and maintaining records. I recognise that there is frequent turnover at the clerical levels where such documentation/maintenance of records occurs. Therefore, in order to minimise the fallout from staff changes, management needs to institute on-going training and development activities to ensure that knowledge is retained. Additionally, the Internal Audit and Records Management Departments of all public service agencies must "police" the records and provide advice, as required, on the appropriate documentation, storage/maintenance and retrieval of personnel records, in accordance with the rules and regulations that govern them;*
 - Narrow and/or restricted levels of authority granted to Heads of Department and other senior office holders that limit their capacity to make administrative decisions:
 - *Legislative or other policy decisions need to be amended to give greater decision-making power to senior officials at the point of contact for citizens. Such action will reduce the delays caused either by the inaction of officials to whom authority has not been assigned, or the movement of files and other correspondence to the desks of those officials who do have the decision-making authority;*

Summary Of The 34th Annual Report CONT'D

- The failure, by Public Sector agencies, to respond expeditiously to citizens' requests for information under the provisions of the Freedom of Information (FOI) Act:
 - *the Ministry responsible for the dissemination of knowledge of the Act must resume widespread training to ensure that officials who have responsibility for responding to requests observe the statutory time limits for which the Act provides.*

- 5. It is a matter of great concern to me that, despite the fact that the Office of the Ombudsman has been in existence in Trinidad and Tobago for more than thirty-four (34) years, many public officers and Local Government officials appear not to have a clear understanding of the role and functions of the Ombudsman. There have, in fact, been numerous occasions when my requests for information pertinent to an investigation have met with a lack of cooperation and promptness, forcing me to use my formal powers of coercion to ensure action.

- 6. I accept that it is my responsibility to ensure that public officers across the Public Service of Trinidad and Tobago are made aware of the Ombudsman's role in governance, and the part they must play in enforcing the provisions of the Act. To this end, I am actively promoting the role of the Office, particularly with key senior public officials, to produce a new climate of cooperation. Further, it is my intention to establish a mechanism to conduct information sessions within the Public Service to build a better understanding of my Office's oversight functions and the obligations of public officers in ensuring the effective discharge of my constitutional duties.





The Report

The Report

INTRODUCTION

The main function of the Ombudsman is to provide an independent and impartial review of administrative decisions. Citizens who believe they have been adversely affected by such decisions are provided with appropriate explanations when, at the conclusion of investigations conducted by my Office, these decisions are found to be correct. Where, however, an investigation discloses an act of maladministration, a remedy is crafted based on the particular circumstances of the case and a recommendation made to the state agency concerned for redress of the justified complaint.

It must be remembered that *the essence of the Ombudsman concept is that it is intended to be remedial and its processes flexible*. The main concern of my Office is to help people resolve their problems effectively and expeditiously. To be effective I must be able to dispose of most matters quickly and informally, since it is clearly in the best interest of the Public Service and the complainant to settle matters and remedy errors promptly, without impeding the normal operations of the Department concerned with a time-consuming, formal investigation. *The full cooperation of public officers is essential if this objective is to be achieved*.

My Office strives, continuously, to maintain good working relationships with Ministries, Government Departments and other Public Sector Bodies within the jurisdiction of the Ombudsman's oversight functions. I am encouraged by the level of cooperation extended by some Ministries/Departments/Agencies to ensure the effective discharge of my Constitutional responsibilities. I express my deep and sincere appreciation to those agencies which comply readily with the processes of my Office's investigations.

I reiterate my concern that, notwithstanding the thirty-four years that the Office of the Ombudsman has been in existence in Trinidad and Tobago, many public officers and Local Government officials appear not to be aware of the role and functions of the Ombudsman and the Office. There have, in fact, been numerous occasions when my requests for information pertinent to an investigation have met with a lack of cooperation and promptness, forcing me to use my formal powers of coercion to ensure action.

It is my view that the Office's formal powers of coercion should rarely be used. For this reason, it disturbs me that I am now frequently given cause to invoke the use of my Powers of Summons under Section 97 of the Constitution to obtain documents and other critical information relevant to an investigation. To reduce the need for use of these powers, I am actively promoting the role of the Office, particularly with key senior public officials, to produce a new climate of cooperation.

Members of the public have become increasingly aware of the Ombudsman's functions and activities. Each year, my Office conducts monthly outreach visits to areas of the country in which our Regional Offices are located and engage in discussions with members of those communities, both to provide feedback and increase knowledge of the work of the Ombudsman. During the visits, citizens are provided with information on on-going investigations and assistance in making complaints. I consider it necessary for public service officials to also get a greater understanding of the Ombudsman's role, functions and activities so as to facilitate their interface with aggrieved citizens and this Office.

I shall, therefore, initiate/increase the provision of information sessions within the Public Service to build a better understanding of the Ombudsman's oversight functions and the obligations of public officers to ensure the effective discharge of my constitutional duties. It is only when all parties are au courant with their role in facilitating the resolution of problems of maladministration, thus ensuring this Office's capacity to investigate complaints and give redress, where necessary, that the Ombudsman will be in a position to provide the high level of service to which the national community is entitled.

THE ROLE AND FUNCTIONS OF THE OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman was established under Section 91 of the Constitution of the Republic of Trinidad and Tobago for the purpose of investigating:

"... any decision or recommendation made, including advice or recommendation made to a Minister or any act done or omitted by any department of government or any other authority ... being action taken in exercise of the administrative functions of that department or authority."

The Ombudsman is an Officer of Parliament and **does not form part of the machinery of Government**. The Office exists as an independent oversight body and, in accordance with the provisions of the Ombudsman Act, performs the dual role of:

- Providing a fair and impartial investigation service for members of the public who believe that they have been adversely affected by a decision or action of a public sector agency; and
- Assisting public sector agencies to improve their decision making and administrative practices and procedures.

MATTERS SUBJECT TO AN INVESTIGATION

The Ombudsman's jurisdiction spans the whole spectrum of Government operations. The Office can investigate the actions of all public sector agencies to determine whether they are unlawful, unreasonable, unjust or wrong. In the course of an investigation the Ombudsman is not limited to a narrow legal interpretation of the activities undertaken by government agencies but is empowered to consider all factors involved, review their correctness and comment on their appropriateness and fairness.

An action that gives rise to a grievance may be considered unreasonable or unjust to an individual given his/her peculiar set of circumstances, even though that action may have been lawful.

When a complaint is investigated, all relevant information is reviewed including, where appropriate, an examination of Department/Ministry files and visits to sites associated with the complaint. This is done from the perspective of the Office as an independent and impartial reviewer. ***The Ombudsman is not an advocate for either of the parties to a complaint.*** All of the facts, circumstances, laws, regulations, policies and practices relevant to the complaint are reviewed to determine whether that complaint is justified and, if so, what action can be taken to resolve the matter. Based on the results or findings of a complaint investigation, recommendations are made by the Ombudsman to:

- Rectify the effects of a wrong decision or action;
- Improve or implement new administrative procedures or practices of the particular public sector agency;
- Recommend legislative changes.

2011 IN REVIEW

During the year under review, the Office of Ombudsman conducted investigations, into 3,378 administrative complaints, of which **1,775** were new. Seven hundred and fifty-one (751) of the new complaints (42.3%) fell within the jurisdiction of the Ombudsman; of these, two hundred and thirty-one (231) were successfully resolved and five hundred and twenty (520) are still pending. Twenty-four (24) requests for review were received under the provisions of the Freedom of Information (FOI) Act. At the end of 2011, investigations were concluded on 1,127 complaints; 1,227 matters are still under investigation.

In 2011, the Office of Ombudsman produced a Strategic Plan for the one-year period to 2012 and articulated its Vision, Mission, Values and Key Strategic Goals for the period (details are given in **Appendix II**). The Office listed its strategic priorities in the following way:

- To enhance services to the population by strengthening bonds of cooperation with Government Ministries, Local Government Authorities and other state agencies to improve response time and the priority given to complaints.
- To establish improved means to measure performance.
- To build the Office's human resource capacity and capability to respond to current and future service demands, and [the development of] a high-performance organization with a high quality of work life.
- To increase public awareness/public education for the population, focusing on issues of governance and the rights of persons to access public services and the provisions of the Freedom of Information Act.

OVERVIEW OF INVESTIGATIONS CONDUCTED IN 2011

During the year under review, I received a total of one thousand, seven hundred and seventy-five (1,775) new complaints. Four hundred and twenty-five (425) or 23.9% of these complaints were against private institutions and were referred to the agencies mandated to handle those matters. Twenty-four (1.4%) complaints were received under the Freedom of Information Act. In addition, my Office responded to five hundred and seventy-five (575) requests for assistance on which action was taken by way of Advice or Referrals.

Thus, my Office proceeded with the investigation of seven hundred and fifty-one (751) new complaints which were determined as falling within the jurisdiction of the Ombudsman of Trinidad and Tobago (42.3 % of the new complaints received during the year). At the end of the year, investigations were concluded on two hundred and thirty-one (231) or 30.8 % of the complaints, while a total of five hundred and twenty (520) or 69.2 % remained under investigation. **Table I** of the Statistical Review shows the number of new complaints received in 2011 and the manner of their disposal.

The caseload for the period under review comprised the investigation of three thousand, three hundred and seventy-eight (3,378) complaints. This figure is a total of the one thousand, seven hundred and seventy-five (1,775) new complaints received in 2011, and one thousand, six hundred and three (1,603) unresolved matters brought forward from previous years. At the end of 2011, investigations were concluded on one thousand, one hundred and twenty-seven (1,127) complaints, while one thousand, two hundred and twenty-seven (1,227) remained under investigation. **Table II** provides an overview of the caseload of complaints handled by the Office in 2011.

Complaints were received at the Offices in Port of Spain, San Fernando and the Tobago. **Table III** shows the distribution of complaints received in 2011 against various Ministries and other state agencies and the manner of their disposal during the period.

The Port of Spain Office

Table IV shows the distribution of complaints lodged at the Port of Spain Office. There were one thousand and sixty-eight (1,068) new complaints. The Office commenced the investigation of five hundred and eleven (511) or 47.8 % of the new complaints received at the beginning of the year, and investigations were completed on one hundred and sixty-one (161) or 31.5 % of the complaints. Three hundred and fifty (350) or 68.5 % remained under investigation at the end of the year. **Table V** provides the distribution of the complaints and the manner of their disposal.

The San Fernando Office

Four hundred and seventy-seven (477) new complaints were lodged at the San Fernando Office in 2011. Investigations commenced on one hundred and eight (108) or 22.6 % of these new complaints; forty-three (43) or 39.8 % were completed and sixty-five (65) or 60.2 % remained under investigation at the end of the year, as shown in **Table VI**. A detailed distribution of the complaints received at the San Fernando Office in 2011 and the manner of their disposal is shown in **Table VII**.

The Tobago Office

For the year 2011 a total of two hundred and thirty (230) new complaints were lodged at the Tobago Regional Office. Five (5) or 2.2 % of these complaints were against private institutions and ninety-three (93) or 40.4 % were dealt with by way of Advice or Referrals. **Table IX** shows that, in addition to the two hundred and thirty (230) new cases received during the current reporting period, one hundred and one (101) matters were brought forward from preceding years. Therefore, the Tobago Office's workload for 2011 comprised the investigation of three hundred and thirty-one (331) complaints. Investigations were completed on eighty-two (82) or 35.2 % of those matters and one hundred and fifty-one (151) or 64.8 % remained under investigation at the end of the year. **Table X** provides details of the distribution of the complaints received at the Tobago Office in 2011 and the manner of their disposal.

SUMMARY OF COMPLAINTS

Complaints were made against thirty-seven (37) Ministries/Departments and other public sector agencies during 2011. The ten (10) agencies that recorded the highest number of complaints are listed below:

Name of Ministry/Department/Agency	No. of Complaints
The Ministry of Local Government	94
The Ministry of Housing and the Environment	81
The National Insurance Board	78
The Ministry of the People and Social Development	74
The Ministry of Health	59
The Ministry of National Security	51
The Tobago House of Assembly	46
The Ministry of Food Production, Land and Marine Affairs	38
The Ministry of Education	35
The Ministry of Finance	26
TOTAL NUMBER OF COMPLAINTS	582

It is to be noted that complaints against the Ministry of Housing and the Environment and its agencies increased significantly during this reporting period. Eighty-one (81) complaints were received in 2011 as compared to forty-one (41) in 2010, an increase of 50.6 %. At the end of 2011, seventy (70) or 86.4 % were still pending because of the failure of the Ministry and its respective agencies to take immediate and appropriate action. Moreover, sixty-one (61) or 75.3 % of the complaints received against the Ministry of Housing and the Environment were against the Housing Development Corporation.

OUTREACH SERVICES

In an attempt to provide services to communities served by the Regional Offices, outreach visits were conducted once a month in the areas of Point Fortin; Rio Claro; Chaguanas; Sangre Grande; Siparia; Couva; and Roxborough, Tobago. Members of the public were interviewed and provided with assistance in making complaints, or received updates on on-going matters. As shown in Table XI, a total of four hundred and twenty-nine (429) persons visited the Regional Offices to participate in the Outreach Programme.



THE OMBUDSMAN AND THE FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOI Act), Chap. 22:02 came into effect in 2001. This Act provides members of the public with a general right of access to official documents in the possession of public-sector bodies/authorities.

My statutory functions to ensure compliance with the legislative requirements of the FOI Act are prescribed by:

(i) Section 38 A (1) -

"A person aggrieved by the refusal of a public authority to grant access to an official document, may within twenty-one (21) days of receiving notice of the refusal under Section 23(1), complain in writing to the Ombudsman and the Ombudsman shall after examining the document if it exists, make such recommendations with respect to the granting of access to the document as he thinks fit within thirty days or as soon as practicable thereof."

(ii) Section 23(1) e -

"Where the decision is to the effect that the document does not exist or cannot, after a thorough and diligent search, be located, inform the applicant of his right to complain to the Ombudsman."

Section 15 of the FOI Act places a statutory obligation upon public authorities to take all reasonable steps to inform an applicant of a decision as soon as practicable but, in any case, not later than thirty (30) days after the request for the grant of access to official documents was duly made.

An applicant can complain to me that there has been an unreasonable delay in handling his/her request if there has been no response from the relevant department after the thirty-day period has elapsed. My investigation of such a complaint may, however, only be conducted under the provisions of the Ombudsman Act Chapter 2:52, and not the FOI Act.

It is important to note that, under the provisions of Section 38A (1) of the FOI Act, an applicant is only provided with the right of an appeal to the Ombudsman when he has been notified, in writing, by the public authority that his application for access has been denied.

Public authorities must adhere to strict time lines in the processing of an applicant's request in view of the three-month time limit for the commencement Judicial Review proceedings, as is stipulated under the Judicial Review Act, Chapter 7:08. Delays in the handling of the request can compromise the avenue for redress which is available to an aggrieved applicant.

Where an agency claims a document does not exist or cannot be located, the FOI Act requires the department concerned to notify the applicant of his right to complain to the Ombudsman. My function is to establish whether a thorough and diligent search was undertaken by the Government Department/Agency for the requested document. In conducting my review of its response, I must be satisfied that the agency consulted all the relevant staff members, identified and undertook methodical searches of the appropriate areas, and explored all possible avenues to locate the document.

FOI requests for documents held by my Office

Section 98(7) of the Constitution of the Republic of Trinidad and Tobago, Chapter 1:01, prescribes that documents in my Office are exempt from disclosure, since this information is privileged in the same manner as if the enquiry or proceedings were proceedings in a court of law. I shall, however, consider requests from complainants for copies of documents which they had submitted to the Office.

In 2011 I received twenty-four (24) requests for review under Section 38A of the FOI Act. While the number of requests for review under the FOA Act has declined, I have noted that one third of the requests seeking my intervention under the FOI Act were made as a result of non-response by the relevant public authority to the applicant's request. I wish to reiterate that public authorities are under a statutory obligation to address these requests under the FOI Act within the stipulated thirty-day time limit, and have an obligation to assist members of the public, wherever necessary.

Public officers must recognise and appreciate the importance of their role under the FOI Act when treating with requests made by members of the public. The FOI Act was enacted to afford members of the public a right of access to information. Anything done to derogate from this right is in contravention of the provisions of the FOI Act, and is a breach.

STAFF TRAINING AND DEVELOPMENT

The Office of the Ombudsman is committed to the delivery of the highest level of quality service to citizens of Trinidad and Tobago. Thus, it is evident that the Ombudsman and members of staff must continuously seek to enhance their skills and keep abreast of modern methods and work processes to ensure that the institution effectively discharges its constitutional mandate.

To this end, a Training Plan for the period 2011-2014 was formulated and approved in accordance with the Training Policy for the Public Service of Trinidad and Tobago (1997) and the Training Policy Guidelines (1998). The Plan focuses on the development needs of all employees and aims to achieve continuous improvement in all areas of the operations of the Office by linking individual performance to the realization of the Office's strategic goals.

In 2011, members of staff participated in training programmes which covered the following topics:

- **Effective Business Writing**
- **Emotional Intelligence**
- **Five Star Client Relations**
- **Mediation/Alternative Dispute Resolution (ADR)**
- **Effective Time Management Skills and Decision Making**
- **Investigative, Interviewing and Report Writing Skills**
- **Management Skills for the New Manager**

ATTENDANCE AT INTERNATIONAL MEETINGS AND CONFERENCES

The Office of the Ombudsman plays an active role regionally and internationally in the development of the Ombudsman institution and the promotion of good governance. In 2009, I was elected to the Board of Directors of the International Ombudsman Institute (IOI) as one of the representatives for the Latin American and Caribbean Regions. In 2011, I attended two meetings of the Board in order to fulfil my obligations as a Director and as a member of the Board's By-laws, Membership and Governance Committee. The meetings were held in Vienna, Austria, from May 26-28, 2011 and in Livingstone, Zambia, from 30th October-4th November, 2011.

In March 2011, I attended a United Nations Human Rights Regional Workshop which was held at the Hyatt Regency Hotel in Port of Spain, Trinidad. This workshop was attended by Ombudsmen from the Caribbean region, Human Rights Commissioners worldwide, and representatives of local NGOs and Civil Society.



Areas of Concern

Areas of Concern

AREAS OF CONCERN IDENTIFIED

There are areas of concern of which I must make specific mention, especially as they affect delays, by public service agencies, in processing approvals for which statutory limitations apply, as well as those that result in financial hardship for the complainant; instances of poor record-keeping that can result in allegations of bias, incompetence or corruption on the part of public officers; and complaints about delays that have negative, legal implications for citizens who are incarcerated.

The following are the major challenges for public service administration:

- The failure, by Ministries/Departments and other Public Sector agencies, to respond in an expeditious manner to requests for information, or to take appropriate action to close investigations.
- The failure, by Public Sector agencies, to respond expeditiously to citizens' requests for information under the provisions of the Freedom of Information Act.
- Administrative delays in processing approval and other services that have statutory [time] limits built into specified Acts, such as [in the case of the Town and Country Planning Division, Ministry of Planning and the Economy] the processing of approvals for changes in land use, applications for building permits, and the construction of illegal structures;
- [In respect of persons who are incarcerated] delays in obtaining early trial dates and notes of evidence, and in having appeals heard.
- Complaints about general prison conditions.
- Poor record keeping resulting in:
 - Inaccuracies in the computation of officers' terminal benefits and subsequent delays in the payment of retired persons' pensions and gratuities;
 - Overpayment of salaries, resulting in reductions in retiring officers' terminal benefits when said overpayments had to be deducted.
- Narrow and/or restricted levels of authority granted to Heads of Department and other senior office holders that limit their capacity to make administrative decisions that negatively affect citizens.

The examples that follow describe certain areas of weakness attributed to specific public agencies, and discuss the repercussions for members of the public.

Town and Country Planning Division

- i. In the Town and Country Planning Division of the Ministry of Planning and the Economy, delays in the processing of approvals for changes in land use, applications for building permits, and action on the construction of illegal structures continue to negatively affect members of the public.
- ii. It has been observed that problems of inadequate staffing, inter alia, are responsible for these delays. Furthermore, the Division cannot enforce any action after the limitation period of four years has passed. It is not feasible for an application to be processed within the time limit of two months as laid down by the Act if there are insufficient officers to perform the job required.
- iii. The Town & Country Planning Act Chap. 35:01, under which the Division operates, needs to be updated in order to reflect the realities of Trinidad and Tobago's current social and economic climate. The Division must be given more power to enforce its provisions. The need for the updating of procedures and processes, and the establishment of realistic time limits must be considered.
- iv. Further, attention needs to be paid to the recruitment of suitably-trained and adequately compensated staff if the Government wishes to attract and retain competent personnel to man the Division.

Prison Service

- i. In the Prison Service of Trinidad and Tobago, Ministry of National Security, there are delays in responding to prisoners' service requests.
- ii. I have received complaints from prisoners, mainly directed against the Director of Public Prosecutions and the Registrar of the Supreme Court, in respect of delays in obtaining early trial dates, notes of evidence, or having their appeals heard. Complaints about general prison conditions are not uncommon.
- iii. These complaints were brought to the attention of the relevant functionaries and the Inspector of Prisons who could address and resolve the problems encountered by prisoners. In most cases, prisoners' concerns were resolved.
- iv. However, it must be emphasised that this Office cannot be used as a channel to forward mail from prisoners to their attorneys-at-law. Mail must be forwarded through the proper channels by the authorities on behalf of the prisoners.

Poor Record Keeping

- i.** A major concern is poor record-keeping by Ministries/Departments. The failure of these agencies to maintain proper and accurate records can lead to allegations of bias, incompetence or corruption on the part of public officers. Errors such as misplacing or losing a file, failing to keep a proper record of an important decision, or confusing persons who have similar or identical names can lead to serious consequences for an individual. The maintenance of accurate and proper records must be viewed as a mandatory obligation by all State agencies.
- ii.** One area in which improved record-keeping is critical is the compilation and maintenance of the Pension and Leave (P&L) records of public officers throughout the Public Service. These records must be updated annually as failure to do so may lead to serious delays in the payment of retirement benefits.
- iii.** A recent and worrisome example relates to a Complainant who sought the assistance of the Ombudsman in May, 2011 to obtain payment of his pension and gratuity. He had worked at the Ministry of Education for a period of forty (40) years and retired in March, 2011. He reported that he had submitted the requisite documents from as early as September, 2009 to ensure that he received payment of his pension and gratuity on the date of his retirement. Despite this precaution, the Pension and Leave records were not completed on time and forwarded to the Pensions Division/Comptroller of Accounts for the processing of his retirement benefits.
- iv.** My investigations disclosed that the Pension and Leave records only reached the Ministry's Audit Department in July, 2011. An audit of the records detected certain errors and the documents were returned to the Pension and Leave Department for correction. After those initial corrections were made, it was then discovered that no salary increments had been paid to the complainant for the period of his scholarship award in the 1970s. A further adjustment had to be made to his record by the Ministry of Public Administration, which resulted in another delay. At the end of 2011 his Pension and Leave record was still incomplete.



- vi.** Another major problem caused by poor recording keeping practices is the incidence of overpayment of salaries made to public officers. Overpayments occur regularly when an officer's period of extended sick leave is not classified on a timely basis. In those Ministries where the Pension and Leave records are not updated on a regular and timely basis, overpayments remain undetected for several years and are only discovered when officers are about to retire and steps are taken to compute their retirement benefits. In many instances, the overpayment is recovered from the gratuity payments and places the retired persons in an unforeseen precarious financial position at the end of their working life.
- a.** A case concerning such an overpayment was brought to the attention of the Ombudsman in November, 2006. A primary school teacher who retired medically unfit in April 2006 was informed that he had been overpaid in the sum of \$103,720.00 and that this sum was to be deducted from his gratuity. In this case, the Comptroller of Accounts eventually agreed, in 2009, to write off the overpayment. However at the end of 2011, the Complainant was yet to receive payment of his retirement benefits and is experiencing financial hardship.



Case Notes

Case Notes

On the pages that follow are summaries of seven (7) cases that describe incidences of maladministration or the failure of public agencies to deal effectively and expeditiously with the concerns of citizens. The cases relate to complaints against the following agencies:

- **The Ministry of National Security (Trinidad and Tobago Defence Force)**
- **The Ministry of Local Government (Couva/Tabaquite/Talparo Regional Corporation)**
- **The Ministry of Works and Infrastructure (Drainage Division)**
- **The Ministry of Works and Infrastructure (Transport Division)**
- **The National Insurance Board**
- **The Ministry of Housing and the Environment (Housing Development Corporation)**
- **The Ministry of Food Production, Land and Marine Affairs (Commissioner of State Lands)**
- **Ministry of Local Government (San Juan/Laventille Regional Corporation)**
- **Land Survey Board of Trinidad and Tobago**

In a few instances, it appeared that the rules/procedures/processes that could have led to a speedy resolution were faulty or outdated. Notwithstanding this, my investigations suggested that there were minimal attempts by the public officials involved to take such action as may have been necessary to expedite the matter, or to keep the Complainant informed of the status of his/her complaint.

In at least one case, I recognised that, while there are existing mechanisms that allow action to be taken on grounds of fairness and equity and to ensure that an officer is not disadvantaged, there appeared to have been no attempt by the responsible officials to seek reasonable solutions.



Case Note #1 The Ministry of National Security (Trinidad & Tobago Defence Force)

RETROACTIVE PAYMENTS OWED FOR THE PERIOD 1997 TO 2006 FOR THE PERFORMANCE OF DUTIES IN A HIGHER POST

The Complainant sought the intervention of the Ombudsman to address the failure of the Defence Force to pay him, retroactively, for having performed the duties of a higher office for a period of nine years. The officer, who had been employed as a Driver Heavy T (Class 4) in the Trinidad and Tobago Defence Force, performed the duties of Diesel Mechanic from 1997 to 2006, a period of approximately nine years, while continuing to be paid as a Driver. He requested that his salary be made commensurate with that of Diesel Mechanic but, despite his best efforts to have the matter addressed, it remained unresolved.

The Complainant stated that, in mid-June 2009, he was offered retroactive payments for a maximum of two years although, according to his calculations, he was owed such payments for a period of nine years. He did not accept the payment offered and, instead, approached this Office in June 2009 seeking justice.

Under the Third Schedule of the Constitution of the Republic of Trinidad and Tobago, entitled "Matters not subject to investigation", Item 8 states the Office of the Ombudsman cannot investigate:

"... action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed".

Although this Office did not have jurisdiction to pursue the above matter, I decided to seek the views of the Permanent Secretary, Ministry of National Security, who subsequently advised that:

- The officer **had** performed the duties of Diesel Mechanic from the date of his appointment as a Motor Vehicle Driver; but
- It was not possible to remunerate him as a Diesel Mechanic prior to the date of his subsequent promotion in that position, since there were no vacant positions available at the time.

I informed the Permanent Secretary that I was of the view that, on the grounds of equity and fairness, the Officer should be compensated for the duties performed outside the scope of the responsibilities of his substantive position.

Case Note #2 Ministry Of Local Government (Couva/Tabaquite/Talparo Regional Corporation)

FLOODING OF COMPLAINANT'S PROPERTY AS A RESULT OF A FAULTY DRAIN

In 2006, the Complainant sought the assistance of the Ombudsman to have the **Couva/Tabaquite/Talparo Regional Corporation** remove, from the public drain at the back of her property, a broken concrete slab which blocked the flow of water and resulted in the flooding of his property.



The nuisance was drawn to the attention of the *Chief Executive Officer, Couva/Tabaquite/Talparo Regional Corporation* in 2006. In February 2007, the Corporation informed the Ombudsman that the concrete slab had been removed, as a temporary measure, to allow the free flow of water and that, as a permanent solution, concrete inverts would be installed under the Development Programme in the following year. The Complainant was advised accordingly.

However, in May 2007, the complainant indicated that the matter remained unresolved, as the flooding persisted. On July 10, 2007 the Ombudsman convened a site visit with officials from the Corporation to ascertain the cause of the flooding. It was determined that two sharp bends in the drain were significantly curtailing the free flow of water, causing it to accumulate and overflow onto the complainant's property. Based on these findings, the construction of a new box drain was recommended. Construction required the approval of, and funding from, the Council. The Ombudsman met with the Councillor for the Freeport/Calcutta area with the aim of having the matter placed on the agenda of the Council. The Ombudsman's recommendation for the construction of a new box drain was vigorously pursued by this Office.



In October 2007, the Ombudsman was informed that the recommendation for the construction of the drain had been approved and would be placed in the Development Programme Estimates of Expenditure for the Fiscal Year 2008/2009. However, because of a lack of funds, construction of the box drain was rescheduled to the following year. In October 2010, the Office was informed by the Corporation that the new box drain had been completed. The Complainant was so informed.

THREAT OF BUILDING COLLAPSE AS A RESULT OF LAND SLIPPAGE

The Complainant, who resides in Gasparillo, sought the assistance of the Ombudsman after exhausting all efforts to have the Couva/Tabaquite/Talparo Regional Corporation (CTTRC) undertake remedial work to prevent severe land slippage caused by erosion of the banks of the watercourse at the back of his property. Because of the land slippage, the Complainant's entire backyard had eroded and his home was on the verge of collapsing. The matter was brought to the attention of the Chief Executive Officer of the Corporation, and the Drainage Division, Ministry of Works and Infrastructure.

In September 2011, the Complainant reported to the Ombudsman that the Ministry of Works and Infrastructure had excavated the watercourse, but the situation had worsened. I conducted a site visit on October 13, 2011 together with the Drainage Superintendent, South, an Engineering Assistant (Drainage Division, South) and Investigators from my Office. During that visit there was evidence of land movement when a large chunk of soil fell down the slope towards the water course. The entire backyard had caved in and the foundation of the house was being undermined.

On October 20, 2011 I wrote to the Director of Drainage, Ministry of Works and Infrastructure, regarding my observations during the site visit. I requested his attention and necessary action, as a matter of priority, to have the problem addressed. One month later, on November 2011, the Complainant reported that officials of the Ministry of Works and Infrastructure had visited and surveyed the affected site. He was informed that recommendations would be made to the Director of Drainage for urgent action. However no work was initiated.

The Engineering Assistant (Drainage Division, South) has since advised that a project of soil restoration stabilisation was scheduled. However, excessive rainfall over the last couple of months has made the soil too soft to allow heavy equipment to reach and operate on the affected site.

The situation is being closely monitored.

DELAY IN THE REINSTATEMENT OF A RETIREMENT PENSION

The Complainant sought the assistance of the Ombudsman in having his Retirement Pension reinstated by the National Insurance Board (NIB). He claimed that the Board was delaying the reinstatement of the pension which he had been receiving since April 2005. Payment had ceased in June 2008.

In a letter dated 18 May, 2009 the Complainant was informed that monthly payments of his Retirement Pension had been curtailed pending an investigation that was being conducted in respect of his continuing qualification for Sickness, Invalidity and Retirement Benefits. In a letter dated November 6, 2009 the Ombudsman wrote to the Executive Director of the National Insurance Board, seeking clarification.

The Executive Manager, Legal Services, responded in a letter dated 19 November, 2009 that an investigation was in progress and that several complex legal issues needed to be addressed before the matter could be resolved.

I was subsequently notified that the Retirement Pension Benefit would be reinstated. The Complainant was so informed.

DELAY IN OBTAINING DEED OF LEASE

The Complainant sought the assistance of the Ombudsman in having a Deed of Lease issued by the Housing Development Corporation in respect of a townhouse at the Couva Housing Project which he had purchased. In 1990 the Complainant entered into a mortgage agreement with the then National Housing Authority for the purchase of a townhouse at the Authority's Couva Housing Project. He liquidated payment of the mortgage in 2007 and then approached the Housing Development Corporation (H.D.C.) to obtain the Deed of Lease. The Complainant was informed that townhouse was constructed on Caroni Lands, and that the necessary steps were being taken to have the lands vested in the Corporation. He was assured that, as soon as this was done, the Deed for the property would be prepared and issued to him.

The Complainant, a retiree, had utilised his retirement benefits to complete payment for his home with the expectation that his property could be used for investment purposes. However, without possession of an unencumbered Deed of Lease, he was unable to engage in any major financial transaction. The Complainant approached the H.D.C offices on several occasions to obtain his Deed of Lease, but was continuously told that the survey of the lands had not yet been completed.

The Complainant eventually sought my assistance in 2009 when he was unsuccessful in obtaining the Deed. My Office wrote to the Managing Director, H.D.C., concerning this matter and was informed by letter dated August 5, 2009 that ***"the lands are currently being surveyed after which H.D.C will take all necessary steps to have the said lands vested in the Corporation."*** I noted that this was the same information that the Corporation had been giving the Complainant since 2007.

Over the last two years, this Office has sent several letters to H.D.C. enquiring about the status of the Complainant's Deed of Lease. The latest correspondence received from H.D.C. on this matter, dated March 24, 2011 persisted with the same explanation that the "lands are currently being surveyed".

My investigations revealed that the Couva Housing Project was developed over thirty (30) years ago, on lands belonging to the State (Caroni 1975 Limited). It is inconceivable and unacceptable that the vesting process has not been concluded after a period of thirty (30) years.

Case Note #5 Ministry Of Housing And The Environment (The Housing Development Corporation)

A vendor is under an obligation to supply a purchaser of land with appropriate information as to title. In the absence of such information, the purchaser is under no obligation to complete the sale. Thus the onus is on the vendor to produce a proper title. The H.D.C., a legal entity separate and apart from the State, would, without more, have had no authority to sell lands which were not vested in it.

In this particular case, the complainant had accelerated his mortgage payments in order to liquidate his debt to the Corporation at an earlier date. He now found himself financially strapped since his investment in a house could not work for him as envisaged. The preparation of Deeds is an integral aspect of the H.D.C.'s portfolio and adequate systems and procedures must be established to ensure that the agency fulfils this mandate in a timely manner. It is an injustice to the residents of the Housing Projects who have paid their mortgages in full and have not been issued with a Deed of Lease.

PROBLEMS RELATED TO THE STATE'S COMPULSORY ACQUISITION OF PRIVATE LANDS

The Complainant approached the Ombudsman for assistance in pursuing the payment of compensation due from the compulsory acquisition, by the State, of a private parcel of land. The Complainant's uncle, who had retired and migrated to Canada, was the owner of lands situated at Store Bay Local Road, Tobago. In a letter from the Director of Surveys, Ministry of Agriculture and Food Production (formerly Ministry of Agriculture, Land and Marine Resources), dated January 9th 1991, he had received notification of the intended compulsory acquisition of the said parcel of land under Section 3 (1) of the Land Acquisition Act, Chapter 58:01, for public purpose - namely "**The Crown Point Aerodrome Development Program**". A notice under Section 4 of the Land Acquisition Act was also issued on June 6th 1994.

After twelve (12) years had elapsed and the formal acquisition still had not been finalised, the Complainant, acting on his uncle's behalf, sought the intervention of the Ombudsman to have the matter expedited. The Complainant was also concerned that, while his family had been deprived of the use of the subject parcel of land, a private enterprise was illegally being operated on the property. He claimed that he had brought the matter of the illegal occupation of the land to the attention of both the Director of Surveys and the Chief Secretary, Tobago House of Assembly, but neither of the entities took action to have the offending party removed.

The Ombudsman wrote to the Director of Surveys on May 4th, 2007 and expressed concern about what appeared to be an inordinate delay in the completion of the acquisition process and the payment of the relevant compensation. In a letter dated May 9th, 2007 the Commissioner of State Lands (who then had jurisdiction for the acquisition of private lands for use by the State) responded to the Ombudsman that, by Legal Notice No. 25 dated 19th January 2006, 0.9713 hectares of land belonging to the Complainant's uncle had been formally acquired by the State. The Commissioner further advised that a letter had been sent to the land owner inviting him to submit a claim for compensation.

On November 7th, 2007, the Complainant again wrote to the Ombudsman advising that, by letter dated July 4th, 2007 his uncle appointed Tobago Estates Agency Limited to negotiate on his behalf with the Commissioner of Valuations. However, despite several reminders and requests for updated status reports, no progress had been made in having the matter finalised.

Case Note #6

Ministry of Agriculture (Commissioner of State Lands)

Eventually, approximately two (2) years after the Ombudsman had first written to the Director of Surveys, the Commissioner of State Lands informed the Ombudsman on May 28, 2009 that the Permanent Secretary, Ministry of Agriculture, Land and Marine Resources indicated that the Ministry was awaiting a release of funds to effect payment to the Complainant. Nevertheless, it would take another ten (10) months and several more reminders before the Commissioner of State Lands advised the Ombudsman, by letter dated March 25, 2011 that the Complainant's uncle had been paid on March 12th, 2010. The Complainant confirmed payment and the file was closed.

Note: The procedure for the payment of compensation for private lands compulsorily acquired by the State for use for public purposes has remained a lengthy and bureaucratic process that inevitably results in delays and frustration for the landowner, who is deprived of the use of his property without being adequately compensated for an unfairly long time.

DELAYS IN THE TRANSFER OF A PROVISIONAL DRIVER'S PERMIT

The Complainant requested the intervention of the Ombudsman to facilitate the transfer of a Provisional Driver's Permit (Learner's Permit) from the Transport Division's Point Fortin office to the Division's Tobago office. On April 15, 2008, after relocating from Point Fortin, Trinidad, to Signal Hill, Tobago, the Complainant applied at the Point Fortin Office of the Transport Division of the then Ministry of Works and Transport for the transfer of her Provisional Driver's Permit (Learner's Permit) to the Tobago Office of the Division.

After five (5) months had elapsed, and following numerous enquiries with the Tobago Office and frequent visits to the Point Fortin Office, she was unable to obtain information regarding the status of her request. Eventually, the Complainant was informed by officials at the Point Fortin Office that the Provisional Permit had been forwarded to the Head Office of the Transport Division, Wrightson Road, Port of Spain. Subsequent efforts by the Complainant to verify the status of the transfer proved futile.

In July 2010, she was eventually informed that the Permit had been sent to the Tobago Office. However, since the process had taken over two years to be completed, the Complainant was informed by an official of the Transport Division that the Permit had expired. She was also advised that, in the event it was still her intention to obtain a Driver's Permit, she would be required to re-apply and pay for another Provisional Driver's Permit.

The Complainant was of the view that this was an unreasonable requirement. She therefore sought a waiver of the fee for acquiring the Provisional Driver's Permit from the Transport Commissioner, Ministry of Works and Transport, since the permit had expired because of the Department's delay in effecting transfer. By letter dated August 16, 2010, the Transport Commissioner informed the Complainant that, in accordance with the Financial Regulations under which the Division operated, the Commissioner did not have the latitude to waive any fees or charges for individuals who had suffered as a result of tardiness by a Government agency. As a result the Commissioner could not accede to her request.

In light of the position taken by the Transport Division, the Complainant sought the assistance of the Ombudsman to have the Commissioner revisit the decision.

Case Note #7

Ministry of Works and Transport (Transport Division)

Subsequent investigations conducted by this Office confirmed that the Transport Commissioner did not, in fact, have the jurisdiction to agree to the Complainant's request for a waiver of the fee. In addition, officers at the Treasury Division, the Department that holds the ultimate responsibility for the collection of Government revenue, confirmed that, within the parameters of the Financial Regulations, the waiver or write-off of monies was permitted only in circumstances where it related to a public officer's increments, overpayment of salary and other similar situations. Therefore there was indeed no provision in law which allowed for the waiver of the fee for acquiring the new Provisional Driver's Permit.

I noted with grave concern that a simple transfer request such as this ought not to have taken the Division over two (2) years to complete, particularly since a Provisional Driver's Permit is only valid for a period of twelve months from the date of issue.

Case Note #8 Ministry of Local Government (San Juan/Laventille Regional Corporation)

FAILURE OF THE CORPORATION TO CONSTRUCT A DRAIN

In February 2005, the complainant sought the assistance of the Ombudsman to have an earthen roadside drain at La Finca Road, Upper Santa Cruz where he lives, repaired, regularly cleaned and/or de-silted, since it caused an infestation of mosquitoes in the area. The matter was forwarded for the attention of the Chief Executive Officer, San Juan/Laventille Regional Corporation (The Corporation) with a request for his views on the matter and information on the corrective action to be taken. The Corporation later informed my Office that their investigations revealed that the drain was blocked as a result of the construction work undertaken at the entrance to a residential building and that due to a land dispute the Corporation was unable to assist.

In this regard, I advised the Chief Executive Officer that in accordance with the Public Health Ordinance Chapter 12 No. 4 Part VII, the Corporation had a responsibility to take corrective action whether the nuisance existed on a public road or private property. The Investigator together with officials from the Drainage Division, Ministry of Works, the County Medical Officer of Health, St. George Central visited the site in September 2008. There were no representatives from the Corporation present, although a request for attendance had been made to the Chief Executive Officer.

Following that site visit the CMOH forwarded certain recommendations to the Corporation which were not implemented. This was confirmed by my Office after another site visit was made in January 2009. Consequently, I convened a meeting with the Acting CEO and County Superintendent of the Corporation in order to have the matter expedited. At that meeting, specific recommendations were made in order to address the problem in the long term. However, as a temporary measure, workmen would be sent to excavate and clean the drain. The walls of the drain would be packed to prevent slippage.

Eventually in January 2011, the Corporation informed me that funds had been made available to carry out improvement works in La Finca Road and that the construction of a 200 metre drain was in progress under the recurrent programme. A field investigation was done in November 2011 and it was noted that the construction of the drain was almost complete and the stagnant water had been drained. There was no longer any threat to the health of the residents. The complainant also confirmed that the problem had been resolved



FAILURE TO PERFORM STATUTORY FUNCTION UNDER THE LAW

The complainant was the owner of a parcel of land situated at Inverness Village. The registered deed of ownership stated that the parcel of land measured 5500 sq.ft. The parcel of land was surveyed on two occasions by different licensed land surveyors who produced conflicting survey results.

The complainant reported that the first surveyor without proper investigation positioned the boundary markers incorrectly on his property. As a consequence the fence which he constructed to enclose his property encroached on the road reserve. The surveyor certified that the parcel of land measured 498.9sq.m. It was also alleged that the second surveyor in conducting the survey used the plan for the Bronte Estate instead of the plan for lands situated at Inverness Road. The Boundary markers on this survey plan differed from the previous survey.

Due to the discrepancies in these plans he was forced to cease the renovation of his house and incurred significant financial loss from the deterioration of construction materials which he had already purchased. He sought the assistance of my office in 2004 when he failed to have the Director of Surveys rectify the discrepancies in the survey plans. The matter was drawn to the attention of both the Director of Surveys and the Permanent Secretary, Ministry of Agriculture on 30th September, 2004. By letter dated 31st January 2005 The Registrar-Secretary of the Land Survey Board of Trinidad and Tobago indicated that the matter had been recently passed to the Board for appropriate action. The Board assured that every effort would have been made to have the matter resolved.

Despite this assurance however the matter remains unresolved although a period of six (6) years has elapsed. The Complainant died in 2009 and his widow has indicated that she is not interested in pursuing the matter. The primary functions of the Land and Survey Board which was established under Section 3 of the Land Surveyors Act, Chap. 58:04 include, inter alia:

- **To register applicants who are fit and proper persons and possess the prescribed qualification and experience**
- **To cause disciplinary proceedings to be taken in accordance with the provisions of this Act.**

The Members of the Land Survey Board are appointed by the Minister. Its operations are funded from the appropriations of the Office of the Director of Surveys who is a Member of the Board. The Board has failed to respond to my written requests over the past six (6) years for a status report on its adjudication of the matter. I hold the view that the complainant has sustained an injustice due to the Board's failure to perform its statutory duty of convening a disciplinary committee to determine this complaint.



Appendices

APPENDIX I - Statistical Review

Table I	Complaints received during the period January-December, 2011
Table II	New complaints received during 2011 and those brought forward from previous years
Table III	Distribution of new complaints against Ministries/Department/Agencies in 2011
Table IV	New complaints received at the Port of Spain office during the period January-December, 2011
Table V	Distribution of new complaints received at the Port of Spain office in 2011
Table VI	New complaints received at the San Fernando office during the period January-December, 2011
Table VII	Distribution of new complaints received at the San Fernando office in 2011
Table VIII	New complaints received at the Tobago office during the period January-December, 2011
Table IX	Complaints received at the Tobago office during 2011 and those brought forward from previous years
Table X	Distribution of complaints received at the Tobago office in 2011
Table XI	Summary of the number of persons who visited the Regional Offices in 2011\

APPENDIX I - Statistical Review

TABLE I
STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY - DECEMBER 2011

	NUMBER	PERCENTAGES %
Total number of complaints received in 2011	1775	100
Less total number of complaints without jurisdiction (Private)	(425)	(23.9)
Less requests under the Freedom of Information Act	(24)	(1.4)
Less enquiries/referrals	(575)	(32.4)
Total number of complaints investigated	751	42.3
Total number of complaints concluded	231	30.8
*Complaints sustained/rectified	72	31.2
*Complaints not sustained	9	3.9
*Complaints withdrawn/discontinued	13	5.6
*Complaints advised/referred	137	59.3
TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AT DECEMBER, 2011	520	69.2

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE II
NEW COMPLAINTS RECEIVED DURING 2011 AND THOSE BROUGHT FORWARD
FROM PREVIOUS YEARS

	NUMBER	PERCENTAGES %
Total number of complaints brought forward from previous years	1603	
Total number of complaints received in 2011	1775	
TOTAL	3378	100
Less number of complaints without jurisdiction (Private)	(425)	(12.6)
Less requests under the Freedom of Information Act	(24)	(0.7)
Less enquiries/referrals	(575)	(17)
Total number of complaints investigated	2354	69.7
Total number of complaints concluded	1127	47.9
*Complaints sustained/rectified	313	27.7
*Complaints not sustained	37	3.3
*Complaints withdrawn/discontinued	223	19.8
*Complaints advised/referred	554	49.2
TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AT DECEMBER, 2011	1227	52.1

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE III
DISTRIBUTION OF NEW COMPLAINTS AGAINST MINISTRIES/DEPARTMENTS/AGENCIES

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
ARTS AND MULTICULTURALISM	2	0	0	0	2	0
THE ATTORNEY GENERAL	7	3	0	0	4	0
COMMUNITY DEVELOPMENT	14	8	0	1	5	0
EDUCATION	35	2	0	1	32	0
ELECTIONS AND BOUNDARIES COMMISSION	4	1	0	3	0	0
ENERGY AND ENERGY AFFAIRS	4	2	0	0	2	0
ENVIRONMENTAL MANAGEMENT AUTHORITY	1	0	0	0	1	0
FINANCE	26	4	0	3	19	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	38	4	2	0	30	2
FOREIGN AFFAIRS AND COMMUNICATIONS	2	0	0	1	1	0
HEALTH	59	12	1	5	41	0
HOUSING AND THE ENVIRONMENT	18	6	0	2	10	0
• CEPEP	2	0	0	0	2	0
• Housing Development Corporation (HDC)	61	2	0	0	58	1
JUDICIARY	8	8	0	0	0	0
JUSTICE	7	3	1	0	3	0
LABOUR, SMALL AND MICRO ENTERPRISE DEVELOPMENT	7	1	0	2	4	0
LEGAL AFFAIRS	8	4	0	0	3	1
LOCAL GOVERNMENT	8	2	0	0	6	0
• URP	3	0	0	0	3	0
• Borough Corporation	11	1	1	1	7	1
• City Corporation	8	0	1	1	6	0
• Regional Corporation	64	10	2	7	43	2
MAGISTRACY	9	7	0	1	1	Discontinued
NATIONAL INSURANCE BOARD	78	4	0	6	68	
NATIONAL SECURITY	1	1	0	0	0	0
• Coast Guard	1	0	0	0	1	0
• Defence Force	1	0	0	0	1	0
• Forensic Science Centre	1	1	0	0	0	0
• Fire Services	5	1	0	1	3	0
• Immigration	6	0	0	2	4	0

APPENDIX I - Statistical Review

TABLE III (Cont'd)

DISTRIBUTION OF NEW COMPLAINTS AGAINST MINISTRIES/DEPARTMENTS/AGENCIES

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
• Police Service	17	5	0	0	11	1
• Prisons Service	19	10	0	1	8	0
OFFICE OF THE PRIME MINISTER	3	1	0	0	2	0
THE PEOPLE AND SOCIAL DEVELOPMENT	74	9	0	19	46	0
PERSONNEL DEPARTMENT	1	0	0	0	1	0
PLANNING, ECONOMIC & SOCIAL RESTRUCTURING & GENDER AFFAIRS	16	2	1	2	10	1
PUBLIC ADMINISTRATION	4	1	0	1	2	0
PORT AUTHORITY OF TRINIDAD AND TOBAGO	1	0	0	0	1	0
PUBLIC UTILITIES	2	0	0	0	2	0
• T.S.T.T	3	2	0	0	1	0
• T & TEC	6	3	0	2	1	0
• W. A. S. A	7	3	0	2	2	0
• TTPOST	3	1	0	1	1	0
SCIENCE, TECHNOLOGY AND TERTIARY EDUCATION	5	0	0	0	4	1
SERVICE COMMISSIONS DEPARTMENT	6	2	0	0	4	0
STATUTORY AUTHORITIES SERVICE COMMISSION	1	0	0	1	0	0
SPORT AND YOUTH AFFAIRS	5	1	0	1	2	1
TOBAGO HOUSE OF ASSEMBLY	1	1	0	0	0	0
• Division of Health & Social Services	4	0	0	0	3	1
• Office of the Chief Secretary-Chief Administrator	4	0	0	0	4	Discontinued
• Division of Infrastructure & Public Utilities	25	0	0	3	19	
• Division of Tourism & Transportation	10	2	0	1	7	0
• Finance & Enterprise Development	2	0	0	0	2	0
TOBAGO DEVELOPMENT	0	0	0	0	0	0
• CAST	2	0	0	0	2	0
• Tobago Regional Health Authority	8	2	0	0	6	0
WORKS AND INFRASTRUCTURE	23	3	0	1	19	0
TOTAL	751	137	9	72	520	13
Freedom of Information Act, 1999 Chap. 22:02	24					
Enquiries/Referrals	575					
Private	425					
GRAND TOTAL	1775	137	9	72	520	13

APPENDIX I - Statistical Review

TABLE IV
NEW COMPLAINTS RECEIVED AT THE PORT OF SPAIN OFFICE DURING THE PERIOD JANUARY–DECEMBER 2011

	NUMBER	PERCENTAGES %
Total number of complaints received in 2011	1068	100
Less total number of complaints without jurisdiction (Private)	(213)	(19.9)
Less requests under the Freedom of Information Act	(24)	(2.3)
Less enquiries/referrals	(320)	(30)
Total number of complaints investigated	511	47.8
Total number of complaints concluded	161	31.5
*Complaints sustained/rectified	47	29.2
*Complaints not sustained	6	3.7
*Complaints withdrawn/discontinued	8	5
*Complaints advised/referred	100	62.1
TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AT DECEMBER, 2011	350	68.5

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE V
DISTRIBUTION OF NEW COMPLAINTS RECEIVED AT THE PORT OF SPAIN OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
ARTS AND MULTICULTURALISM	1	0	0	0	1	0
THE ATTORNEY GENERAL	7	3	0	0	4	0
COMMUNITY DEVELOPMENT	13	8	0	1	4	0
EDUCATION	24	0	0	0	24	0
ELECTIONS AND BOUNDARIES COMMISSION	2	0	0	2	0	0
ENERGY AND ENERGY AFFAIRS	3	1	0	0	2	0
ENVIRONMENTAL MANAGEMENT AUTHORITY	1	0	0	0	1	0
FINANCE	21	3	0	1	17	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	20	1	1	0	17	1
FOREIGN AFFAIRS AND COMMUNICATIONS	2	0	0	1	1	0
HEALTH	41	10	1	4	26	0
HOUSING AND THE ENVIRONMENT	13	4	0	1	8	0
• <i>Housing Development Corporation (HDC)</i>	54	2	0	0	51	1
JUDICIARY	8	8	0	0	0	0
JUSTICE	6	3	0	0	3	0
LABOUR, SMALL AND MICRO ENTERPRISE DEVELOPMENT	4	1	0	0	3	0
LEGAL AFFAIRS	6	3	0	0	2	1
LOCAL GOVERNMENT	6	0	0	0	6	0
• <i>Borough Corporation</i>	8	1	1	1	5	0
• <i>City Corporation</i>	7	0	1	1	5	0
• <i>Regional Corporation</i>	31	5	1	4	20	1
MAGISTRACY	7	6	0	1	0	0
NATIONAL INSURANCE BOARD	59	1	0	4	54	0
NATIONAL SECURITY	1	1	0	0	0	0
• <i>Coast Guard</i>	1	0	0	0	1	0
• <i>Defence Force</i>	1	0	0	0	1	0
• <i>Fire Services</i>	2	0	0	0	2	0
• <i>Immigration</i>	5	0	0	1	4	0
• <i>Police Service</i>	17	5	0	0	11	1
• <i>Prisons</i>	17	10	0	1	6	0

APPENDIX I - Statistical Review

TABLE V (Cont'd)

DISTRIBUTION OF NEW COMPLAINTS RECEIVED AT THE PORT OF SPAIN OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
OFFICE OF THE PRIME MINISTER	3	1	0	0	2	0
THE PEOPLE AND SOCIAL DEVELOPMENT	58	5	0	16	37	0
PLANNING, ECONOMIC & SOCIAL RESTRUCTURING & GENDER AFFAIRS	13	1	1	2	8	1
PUBLIC ADMINISTRATION	2	1	0	1	0	0
PUBLIC UTILITIES	2	0	0	0	2	0
• I.S.I.T	2	2	0	0	0	0
• T & TEC	5	3	0	1	1	0
• W. A .S .A	5	3	0	0	2	0
• TTPOST	2	1	0	1	0	0
SCIENCE, TECHNOLOGY AND TERTIARY EDUCATION	5	0	0	0	4	1
SERVICE COMMISSIONS DEPARTMENT	6	2	0	0	4	0
SPORT AND YOUTH AFFAIRS	4	1	0	1	1	1
STATUTORY AUTHORITIES SERVICE COMMISSION	1	0	0	1	0	0
TOBAGO HOUSE OF ASSEMBLY	1	1	0	0	0	0
<i>Division of Tourism & Transportation</i>	3	2	0	0	1	0
WORKS AND INFRASTRUCTURE	11	1	0	1	9	0
TOTAL	511	100	6	47	350	8
<i>Freedom of Information Act, 1999 Chap. 22:02</i>	24					
<i>Enquiries/Referrals</i>	320					
<i>Private</i>	213					
GRAND TOTAL	1068	100	6	47	350	8

APPENDIX I - Statistical Review

TABLE VI
NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY–DECEMBER, 2011

	NUMBER	PERCENTAGES %
Total number of complaints received in 2011	477	100
Less complaints without jurisdiction (Private)	(207)	(43.4)
Less enquiries/referrals	(162)	(34)
Total number of complaints investigated	108	22.6
Total number of complaints concluded	43	39.8
*Complaints sustained/rectified	13	30.2
*Complaints not sustained	2	4.7
*Complaints withdrawn/discontinued	3	7
*Complaints advised/referred	25	58.1
TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AT DECEMBER, 2011	65	60.2

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE VII
DISTRIBUTION OF NEW COMPLAINTS RECEIVED AT THE SAN FERNADO OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
THE ARTS & MULTICULTURALISM	1	0	0	0	1	0
COMMUNITY DEVELOPMENT	1	0	0	0	1	0
EDUCATION	3	2	0	0	1	0
ELECTIONS AND BOUNDARIES COMMISSION	1	0	0	1	0	0
ENERGY AND ENERGY AFFAIRS	1	1	0	0	0	0
FINANCE	1	1	0	0	0	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	2	1	0	0	0	1
HEALTH	12	2	0	1	9	0
HOUSING AND THE ENVIRONMENT	2	2	0	0	0	0
• <i>Housing Development Corporation</i>	7	0	0	0	7	0
JUSTICE	1	0	1	0	0	0
LABOUR, SMALL AND MICRO ENTERPRISE DEVELOPMENT	3	0	0	2	1	Discontinued
LOCAL GOVERNMENT	2	0	0	0	0	
• <i>Borough Corporation</i>	3	0	0	0	2	1
• <i>City Corporation</i>	1	0	0	0	1	0
• <i>Regional Corporation</i>	33	5	1	3	23	1
MAGISTRACY	1	1	0	0	0	0
NATIONAL INSURANCE BOARD	8	2	0	2	4	0
NATIONAL SECURITY	0	0	0	0	0	0
• <i>Fire Services</i>	2	1	0	1	0	0
THE PEOPLE AND SOCIAL DEVELOPMENT	9	3	0	2	4	0
PERSONNEL DEPARTMENT	1	0	0	0	1	0
PLANNING, ECON & SOCIAL RESTRUCT & GENDER AFFAIRS	3	1	0	0	2	0
PUBLIC UTILITIES	1	0	0	1	0	0
SPORT AND YOUTH AFFAIRS	1	0	0	0	1	0
WORKS AND INFRASTRUCTURE	8	1	0	0	7	0
TOTAL	108	25	2	13	65	3
<i>Enquires/Referrals</i>	162					
<i>Private</i>	207					
GRAND TOTAL	477	25	2	13	65	3

APPENDIX I - Statistical Review

TABLE VIII
NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY–DECEMBER, 2011

	NUMBER	PERCENTAGES %
Total number of complaints received in 2011	230	100
Less complaints without jurisdiction (Private)	(5)	(2.2)
Less enquiries/referrals	(93)	(40.4)
Total number of complaints investigated	132	57.4
Total number of complaints concluded	27	20.5
*Complaints sustained/rectified	12	44.4
*Complaints not sustained	1	3.7
*Complaints withdrawn/discontinued	2	7.4
*Complaints advised/referred	12	44.4
TOTAL NUMBER OF COMPLAINTS UNDER INVESTIGATION AT DECEMBER, 2011	105	79.5

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE IX
COMPLAINTS RECEIVED DURING 2012
AND THOSE BROUGHT FORWARD FROM PREVIOUS YEARS

	NUMBER	PERCENTAGES %
Total number of complaints brought forward from previous years	101	
Total number of complaints received in 2011	230	
TOTAL	331	100
Less number of complaints without jurisdiction (Private)	(5)	(1.5)
Less enquiries/referrals	(93)	(28.1)
Total number of complaints investigated	233	70.4
Total number of complaints concluded	82	35.2
*Complaints sustained/rectified	34	41.5
*Complaints not sustained	8	9.7
*Complaints withdrawn/discontinued	18	22
*Complaints advised/referred	22	26.8
TOTAL UNDER INVESTIGATION AS AT DECEMBER, 2011	151	64.8

* These figures represent percentages of the number of complaints concluded.

APPENDIX I - Statistical Review

TABLE X
DISTRIBUTION OF NEW COMPLAINTS RECEIVED AT THE TOBAGO OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
EDUCATION	8	0	0	1	7	0
ELECTIONS AND BOUNDARIES COMMISSION	1	1	0	0	0	0
FINANCE	4	0	0	2	2	0
FOOD PRODUCTION, LAND AND MARINE AFFAIRS	16	2	1	0	13	0
HEALTH	6	0	0	0	6	0
HOUSING AND THE ENVIRONMENT	3	0	0	1	2	0
• CEPEP	2	0	0	0	2	0
LOCAL GOVERNMENT-URP	3	0	0	0	3	0
LEGAL AFFAIRS	2	1	0	0	1	0
MAGISTRACY	1	0	0	0	1	0
NATIONAL INSURANCE BOARD	11	1	0	0	10	0
NATIONAL SECURITY	0	0	0	0	0	0
• Fire Services	1	0	0	0	1	0
• Forensic Science Centre	1	1	0	0	0	0
• Immigration	1	0	0	1	0	0
• Prison	2	0	0	0	2	0
PUBLIC ADMINISTRATION	2	0	0	0	2	0
PORT AUTHORITY	1	0	0	0	1	0
PUBLIC UTILITIES	0	0	0	0	0	0
• TTPOST	1	0	0	0	1	0
• T & TEC	1	0	0	1	0	0
• TSST	1	0	0	0	1	0
• WASA	1	0	0	1	0	0
THE PEOPLE AND SOCIAL DEVELOPMENT	7	1	0	1	5	0
TOBAGO DEVELOPMENT	0	Referred	0	0	0	Discontinued
• C.A.S.T	2		0	0	2	
• Tobago Regional Health Authority	8	2	0	0	6	0

APPENDIX I - Statistical Review

TABLE X (Cont'd)
DISTRIBUTION OF NEW COMPLAINTS RECEIVED AT THE TOBAGO OFFICE

Ministry/Authority/Agency	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
TOBAGO HOUSE OF ASSEMBLY	0	0	0	0	0	0
<i>Office of the Chief Secretary Chief Administrator</i>	4	0	0	0	4	0
<i>Division of Health & Social Services</i>	4	0	0	0	3	1
<i>Division of Infrastructure & Public Utilities</i>	25	2	0	3	19	1
<i>Division of Tourism & Transportation</i>	7	0	0	1	6	0
<i>Finance & Enterprise Development</i>	2	0	0	0	2	0
WORKS AND INFRASTRUCTURE	4	1	0	0	3	0
TOTAL	132	12	1	12	105	2
ENQUIRIES /REFERRALS	93					
PRIVATE	5					
GRAND TOTAL	230	12	1	12	105	2

APPENDIX I - Statistical Review

TABLE XI

NUMBER OF PERSONS WHO ACCESSED OUTREACH SERVICES
AT THE REGIONAL OFFICES IN 2011

MONTHS	POINT FORTIN	RIO CLARO	CHAGUANAS	SANGRE GRANDE	SIPARIA	COUVA	ROXBOROUGH	TOTAL
JANUARY	5	10	5	10	7	12	-	49
FEBRUARY	6	6	5	12	6	6	-	41
MARCH	7	8	4	5	3	11	-	38
APRIL	2	8	4	7	5	8	2	36
MAY	8	6	4	5	3	9	-	35
JUNE	4	9	4	7	9	3	-	36
JULY	8	12	6	7	14	10	-	57
AUGUST	8	3	6	6	9	9	-	41
SEPTEMBER	2	4	4	6	8	8	-	32
OCTOBER	5	5	6	7	5	4	1	33
NOVEMBER	12	5	3	4	3	4	-	31
DECEMBER	NO VISIT	NO VISIT	NO VISIT	NO VISIT	NO VISIT	NO VISIT	NO VISIT	
TOTAL	67	76	51	76	72	84	3	429

APPENDIX II - Strategic Plan

STRATEGIC PLAN OF THE OFFICE OF THE OMBUDSMAN 2011-2012

Vision

The Office of the Ombudsman is a strong, respected, independent institution dedicated to eliminating bureaucratic injustice and the development of an actable, transparent and participatory public service, for the benefit of all persons in Trinidad and Tobago

Mission

To ensure the protection of all individuals against bureaucratic injustice by efficiently and effectively investigating complaints in an impartial and expeditious manner, educating the public about their rights and responsibilities and advocating for improving the quality and standards of public administration in Trinidad and Tobago.

Values

We **'ASPIRE'**
to ever
higher levels
of service
to our
stakeholders

A - ccessibility
S - ensitivity
P - rofessionalism
I - ntegrity
R - espect
E - quity
E - xcellence

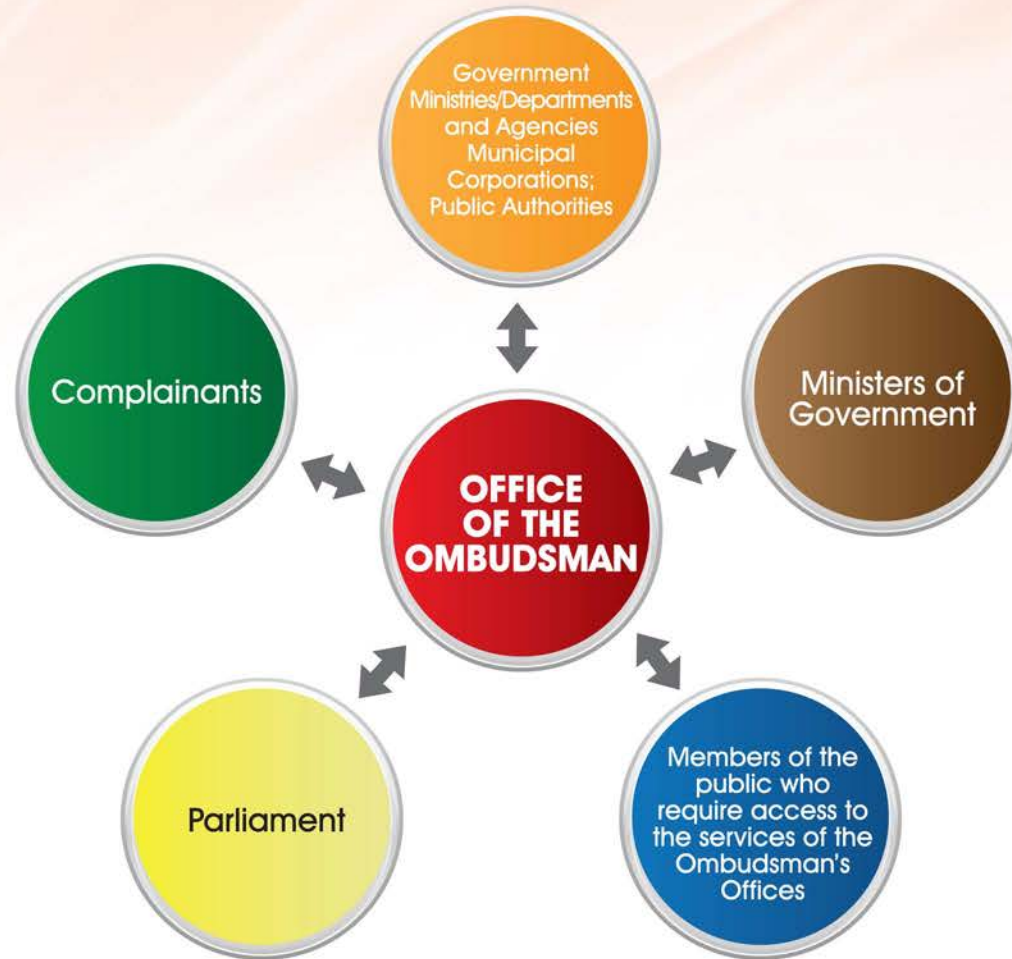
Key Strategic Goals:

- Strengthen the independence of the Office.
- Achieve a high level of public awareness of the existence and function of the Office.
- Continue to earn the respect and cooperation of public sector agencies within remit.
- Contribute to the improvement of the standard of public administration in Trinidad and Tobago by providing high quality investigations and feedback to public sector agencies/departments.
- Provide access for all members of the public to an independent means of complaint resolution.

APPENDIX III - Stakeholders

STAKEHOLDERS OF THE OFFICE OF THE OMBUDSMAN

The diagram below illustrates the key stakeholders of the Office of the Ombudsman. These include Complainants, Government Ministries/Departments/Agencies, Municipal Corporations, Public Authorities, Ministers of Government, the Parliament, and members of the public who require access to the services of the Ombudsman's Offices



APPENDIX IV - Location & Contact Information

PORT OF SPAIN

Head Office

132 Henry Street, Port of Spain

Telephone: (868)624 3132-4

Fax: (868) 625 0717

Email: feedback@ombudsman.gov.tt

SAN FERNANDO

South Office

1st Floor, Fingroup Place

Cor. Hobson and Kelshall Streets

San Fernando

Telephone: (868) 652 6786

Fax: (868) 652 0404

Email: sandoregion@ombudsman.gov.tt

SCARBOROUGH

Tobago Office

Caribana Building

Bacolet Street, Scarborough, Tobago

Telephone: (868)639 1303

Fax: (868) 639 1302

Email: tgoregion@ombudsman.gov.tt

APPENDIX V - Organisation and Structure

ORGANISATION AND STRUCTURE OF THE OFFICE OF THE OMBUDSMAN

The Head Office of the Office of the Ombudsman is located in Port of Spain, Trinidad. There are also Regional Offices located in San Fernando, and Scarborough, Tobago.

The Ombudsman is an Officer of Parliament who is appointed under Section 91 of the Constitution of the Republic of Trinidad and Tobago.

Members of Staff of the Office of the Ombudsman are public officers who are appointed in accordance with Section 121(8) of the Constitution of the Republic of Trinidad and Tobago.

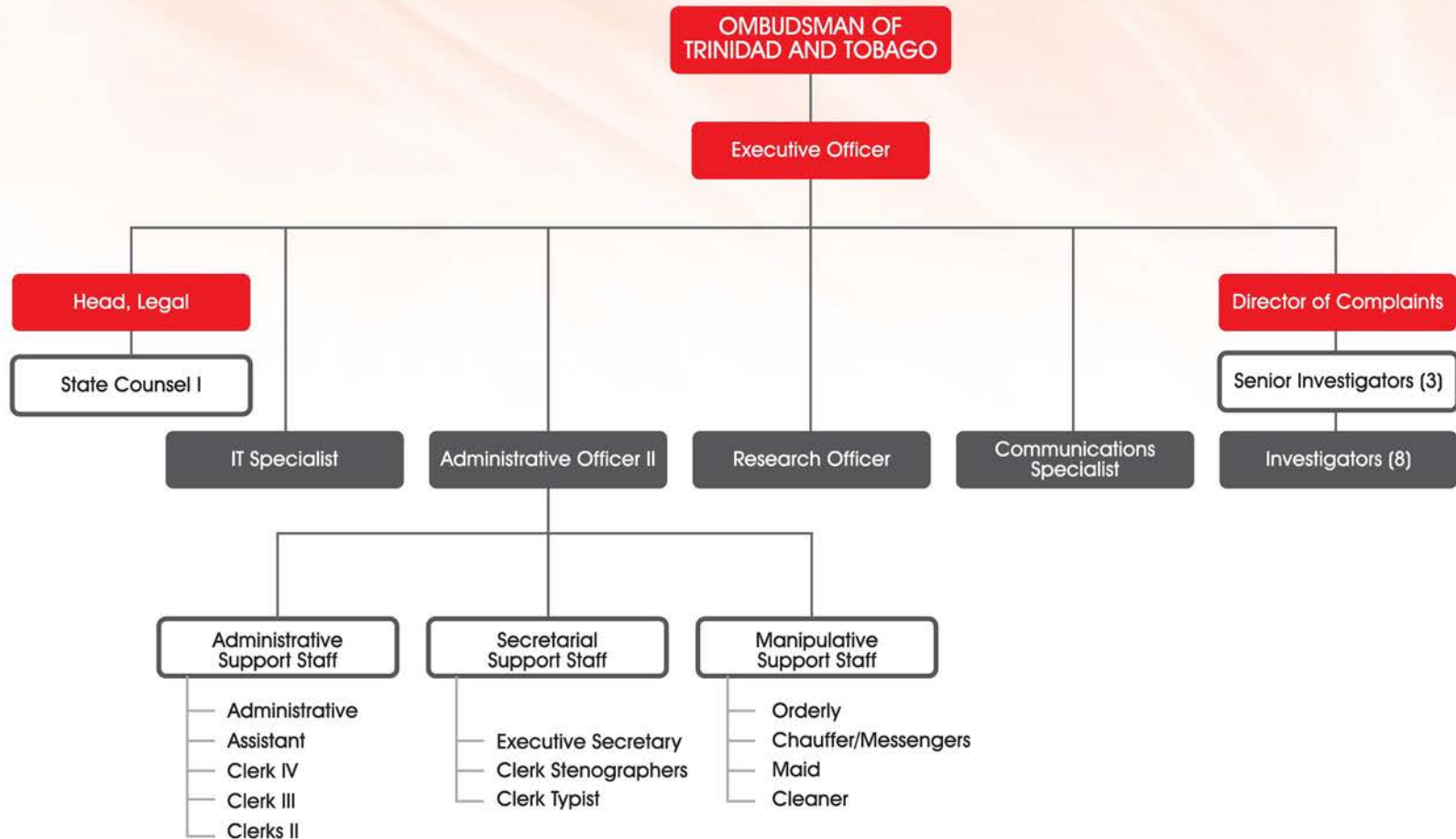
THE OPERATIONS OF THE OFFICE COMPRISE THE FOLLOWING FUNCTIONAL AREAS:

- **Central Corporate Services** which are based at the Head Office in Port of Spain and include:
 - Human Resources
 - Information Technology
 - Accounting Services
 - Records Management
 - Communications
 - Security
 - Library Services
 - Research
 - Facilities Management

- **Complaint-handling**, related to the Ombudsman's functions. This area of operation, located at the Port of Spain, San Fernando and Scarborough, Tobago Offices, is carried out by Investigative Teams, supervised by Senior Investigators.

APPENDIX V - Organisation and Structure

ORGANISATIONAL CHART – OFFICE OF THE OMBUDSMAN



EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

PART II - OMBUDSMAN

*Appointment and
conditions of office.*

91. (1) There shall be an Ombudsman for Trinidad and Tobago who shall be an officer of Parliament and who shall not hold any other office of emolument whether in the public service or otherwise nor engage in any occupation for reward other than the duties of his office.

(2) The Ombudsman shall be appointed by the President after consultation with the Prime Minister and the Leader of the Opposition.

(3) The Ombudsman shall hold office for a term not exceeding five years and is eligible for reappointment.

(4) Subject to subsection (3), the Ombudsman shall hold office in accordance with section 136.

First Schedule.

(5) Before entering upon the duties of his office, the Ombudsman shall take and subscribe the oath of office before the Speaker of the House of Representatives.

*Appointment of staff
of Ombudsman.*

92. (1) The Ombudsman shall be provided with a staff adequate for the efficient discharge of his functions.

(2) The staff of the Ombudsman shall be public officers appointed in accordance with section 121(8).

*Functions of
Ombudsman.*

93. (1) Subject to this section and to sections 94 and 95, the principal function of the Ombudsman shall be to investigate any decision or recommendation made, including any advice given or recommendation made to a Minister, or any act done or omitted by any department of Government or any other authority to which this section applies, or by officers or members of such a department or authority, being action taken in exercise of the administrative functions of that department or authority.

(2) The Ombudsman may investigate any such matter in any of the following circumstances:

(a) where a complaint is duly made to the Ombudsman by any person alleging that the complainant has sustained an injustice as a result of a fault in administration;

(b) where a member of the House of Representatives requests the Ombudsman to investigate the matter on the ground that a person or body of persons specified in the request has or may have sustained such injustice;

(c) in any other circumstances in which the Ombudsman considers that he ought to investigate the matter on the ground that some person or body of persons has or may have sustained such injustice.

(3) The authorities other than departments of Government to which this section applies are—

(a) local authorities or other bodies established for purposes of the public service or of local Government;

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

- (b) authorities or bodies the majority of whose members are appointed by the President or by a Minister or whose revenues consist wholly or mainly of moneys provided out of public funds;
- (c) any authority empowered to determine the person with whom any contract shall be entered into by or on behalf of Government;
- (d) such other authorities as may be prescribed.

94. (1) In investigating any matter leading to, resulting from or connected with the decision of a Minister, the Ombudsman shall not inquire into or question the policy of the Minister in accordance with which the decision was made.

Restrictions on matters for investigations.

(2) The Ombudsman shall have power to investigate complaints of administrative injustice under section 93 notwithstanding that such complaints raise questions as to the integrity or corruption of the public service or any department or office of the public service, and may investigate any conditions resulting from, or calculated to facilitate or encourage corruption in the public service, but he shall not undertake any investigation into specific charges of corruption against individuals.

(3) Where in the course of an investigation it appears to the Ombudsman that there is evidence of any corrupt act by any public officer or by any person in connection with the public service, he shall report the matter to the appropriate authority with his recommendation as to any further investigation he may consider proper.

(4) The Ombudsman shall not investigate—

- (a) any action in respect of which the complainant has or had—
 - (i) a remedy by way of proceedings in a Court; or
 - (ii) a right of appeal, reference or review to or before an independent and impartial tribunal other than a Court; or
- (b) any such action, or action taken with respect to any matter, as is described in the Third Schedule.

Third Schedule.

(5) Notwithstanding subsection (4) the Ombudsman—

- (a) may investigate a matter notwithstanding that the complainant has or had a remedy by way of proceedings in a Court, if satisfied that in the particular circumstances it is not reasonable to expect him to take or to have taken such proceedings;
- (b) is not in any case precluded from investigating any matter by reason only that it is open to the complainant to apply to the High Court for redress under section 14 (which relates to redress for contravention of the provisions for the protection of fundamental rights).

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

Discretion of Ombudsman.

- 95.** In determining whether to initiate, continue or discontinue an investigation, the Ombudsman shall, subject to sections 93 and 94, act in his discretion and, in particular and without prejudice to the generality of this discretion, the Ombudsman may refuse to initiate or may discontinue an investigation where it appears to him that—
- (a) a complaint relates to action of which the complainant has knowledge for more than twelve months before the complaint was received by the Ombudsman;
 - (b) the subject matter of the complaint is trivial;
 - (c) the complaint is frivolous or vexatious or is not made in good faith; or
 - (d) the complainant has not a sufficient interest in the subject matter of the complaint.

Report on investigation.

- 96.** (1) Where a complaint or request for an investigation is duly made and the Ombudsman decides not to investigate the matter or where he decides to discontinue an investigation of the matter, he shall inform the person who made the complaint or request of the reasons for his decision.
- (2) Upon the completion of an investigation the Ombudsman shall inform the department of government or the authority concerned of the results of the investigation and, if he is of the opinion that any person has sustained an injustice in consequence of a fault in administration, he shall inform the department of government or the authority of the reasons for his opinion and make such recommendations as he thinks fit. The Ombudsman may in his original recommendations, or at any later stage if he thinks fit, specify the time within which the injustice should be remedied.
- (3) Where the investigation is undertaken as a result of a complaint or request, the Ombudsman shall inform the person who made the complaint or request of his findings.
- (4) Where the matter is in the opinion of the Ombudsman of sufficient public importance or where the Ombudsman has made a recommendation under subsection (2) and within the time specified by him no sufficient action has been taken to remedy the injustice, then, subject to such provision as may be made by Parliament, the Ombudsman shall lay a special report on the case before Parliament.
- (5) The Ombudsman shall make annual reports on the performance of his functions to Parliament which shall include statistics in such form and in such detail as may be prescribed of the complaints received by him and the results of his investigations.

EXTRACT FROM THE CONSTITUTION OF TRINIDAD & TOBAGO

97. (1) The Ombudsman shall have the powers of the High Court to summon witnesses to appear before him and to compel them to give evidence on oath and to produce documents relevant to the proceedings before him and all persons giving evidence at those proceedings shall have the same duties and liabilities and enjoy the same privileges as in the High Court.

Power to obtain evidence.

(2) The Ombudsman shall have power to enter and inspect the premises of any department of government or any authority to which section 93 applies, to call for, examine and where necessary retain any document kept on such premises and there to carry out any investigation in pursuance of his functions.

98. (1) Subject to subsection (2), Parliament may make provision—

Prescribed matters concerning Ombudsman.

(a) for regulating the procedure for the making of complaints and requests to the Ombudsman and for the exercise of the functions of the Ombudsman;

(b) for conferring such powers on the Ombudsman and imposing such duties on persons concerned as are necessary to facilitate the Ombudsman in the performance of his functions; and

(c) generally for giving effect to the provisions of this Part.

(2) The Ombudsman may not be empowered to summon a Minister or a Parliamentary Secretary to appear before him or to compel a Minister or a Parliamentary Secretary to answer any questions relating to any matter under investigation by the Ombudsman.

(3) The Ombudsman may not be empowered to summon any witness to produce any Cabinet papers or to give any confidential income tax information.

(4) No complainant may be required to pay any fee in respect of his complaint or request or for any investigation to be made by the Ombudsman.

(5) No proceedings, civil or criminal, may lie against the Ombudsman, or against any person holding an office or appointment under him for anything he may do or report or say in the course of the exercise or intended exercise of the functions of the Ombudsman under this Constitution, unless it is shown that he acted in bad faith.

(6) The Ombudsman, and any person holding office or appointment under him may not be called to give evidence in any Court, or in any proceedings of a judicial nature, in respect of anything coming to his knowledge in the exercise of his functions.

(7) Anything said or any information supplied or any document, paper or thing produced by any person in the course of any enquiry by or proceedings before an Ombudsman under this Constitution is privileged in the same manner as if the enquiry or proceedings were proceedings in a Court.

(8) No proceeding of the Ombudsman may be held bad for want of form and, except on the ground of lack of jurisdiction, no proceeding or decision of an Ombudsman is liable to be challenged, reviewed, quashed or called in question in any Court.

THIRD SCHEDULE - MATTERS NOT SUBJECT TO INVESTIGATION

[Section 94(4)(b)].

1. Action taken in matters certified by the Attorney General to affect relations or dealings between the Government of Trinidad and Tobago and any other Government or any International Organisation.
2. Action taken in any country or territory outside Trinidad and Tobago by or on behalf of any officer representing or acting under the authority of the Government of Trinidad and Tobago.
3. Action taken under any law relating to extradition or fugitive offenders.
4. Action taken for the purposes of investigating crime or of protecting the security of the State.
5. The commencement or conduct of civil or criminal proceedings before any Court in Trinidad and Tobago or before any international Court or tribunal.
6. Any exercise of the power of pardon.
7. Action taken in matters relating to contractual or other commercial transactions, being transactions of a department of government or an authority to which section 93 applies not being transactions for or relating to -
 - (a) *the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;*
 - (b) *the disposal as surplus of land acquired compulsorily or in circumstances in which it could be acquired compulsorily.*
8. Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to service in any office or employment in the public service or under any authority as may be prescribed.
9. Any matter relating to any person who is or was a member of the armed forces of Trinidad and Tobago in so far as the matter relates to -
 - (a) *the terms and conditions of service as such member; or*
 - (b) *any order, command, penalty or punishment given to or affecting him in his capacity as such member.*
10. Any action which by virtue of any provision of this Constitution may not be enquired into by any Court.

CHAPTER 2:52 - OMBUDSMAN ACT

An Act to make provision for giving effect to Part 2 of Chapter 6 of the Constitution
(Assented to 24th May, 1977)

ENACTMENT	ENACTED by the Parliament of Trinidad and Tobago as follows:
SHORT TITLE	1. This Act may be cited as the Ombudsman Act.
MODE OF COMPLAINT	2. (1) All complaints to the Ombudsman and requests for investigation by him shall be made in writing. (2) Notwithstanding anything provided by or under any enactment, where any letter written by any person detained on a charge or after conviction of any offence is addressed to the Ombudsman, it shall be immediately forwarded, unopened to the Ombudsman by the person or the time being in charge of the place where the writer is detained.
PROCEDURE IN RESPECT OF INVESTIGATION	3. (1) Where the Ombudsman proposes to conduct an investigation under Section 93 (1) of the Constitution he shall afford to the principal officer of the department or authority concerned, an opportunity to make, orally or in writing as the Ombudsman thinks fit, representations which are relevant to the matter in question and the Ombudsman shall not, as a result of such an investigation, make any report or recommendation which may adversely affect any person without his having had an opportunity to make such representations. (2) Every such investigation shall be conducted in private. (3) It shall not be necessary for the Ombudsman to hold any hearing and, subject as hereinbefore provided, no person shall be entitled as of right to be heard by the Ombudsman. The Ombudsman may obtain information from such persons and in such manner, and make such inquiries as he thinks fit. (4) Where, during or after any investigation, the Ombudsman is of the opinion that there is evidence of any breach of duty, misconduct or criminal offence on the part of any officer or employee of any department or authority to which Section 93 of the Constitution applies, the Ombudsman may refer the matter to the Authority competent to take such disciplinary or other proceedings against him as may be appropriate. (5) Subject to this Act, the Ombudsman may regulate his procedure in such manner as he considers appropriate in the circumstances of the case. (6) Where any person is required under this Act by the Ombudsman to attend before him for the purposes of an investigation, the Ombudsman shall cause to be paid to such person out of money provided by Parliament for the purpose, the fees, allowances and expenses, subject to qualifications and exceptions corresponding to those, that are for the time being prescribed for attendance in the High Court, so, however, that the like functions as are so prescribed and assigned to the Registrar of the Supreme Court of Judicature shall, for the purposes of this sub-section, be exercisable by the Ombudsman and he may, if he thinks fit, disallow, in whole or in part, the payment of any amount under this subsection. (7) For the purposes of Section 93 (2) of the Constitution a complaint may be made by a person aggrieved himself or, if he is dead or for any reason unable to act for himself, by any person duly authorized to represent him. (8) Any question whether a complaint or a request for an investigation is duly made under this Act or under Part 2 of Chapter 6 of the Constitution shall be determined by the Ombudsman.

CHAPTER 2:52 - OMBUDSMAN ACT

CONT'D

EVIDENCE

4. (1) The power of the Ombudsman under Section 97 of the Constitution to summon witnesses and to compel them to give evidence on oath and to produce documents shall apply whether or not the person is an officer; employee or member of any department or authority and whether or not such documents are in the custody or under the control of any department or authority.
- (2) The Ombudsman may summon before him and examine on oath:
- (a) any person who is an officer or employee or member of any department or authority to which Section 93 of the Constitution applies or any authority referred to in the Schedule to this Act and who in the Ombudsman's opinion is able to give any relevant information;
 - (b) any complainant; or
 - (c) any other person who in the Ombudsman's opinion is able to give any relevant information, and for that purpose may administer an oath. Every such examination by the Ombudsman shall be deemed to be a judicial proceeding for the purposes of the Perjury Ordinance.
- (3) Subject to subsection (4) no person who is bound by the provisions of any enactment, other than the Official Secrets Act, 1911 to 1939 of the United Kingdom In so far as it forms part of the law of Trinidad and Tobago, to maintain secrecy in relation to, or not to disclose, any Matter shall be required to supply any information to or answer any Questions put by the Ombudsman in relation to that matter, or to produce to the Ombudsman any document or paper or thing relating to it, where compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.
- (4) With the previous consent in writing of any complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply any information or answer any question or produce any document or paper or thing relating only to the complainant, and it shall be the duty of the person to comply with that requirement.
- (5) Except on the trial of any person for an offence under the Perjury Act in respect of his sworn testimony, or for an offence under Section 10, no statement made or answer given by that or any other person in the course of any inquiry or any proceedings before the Ombudsman under the Constitution or this Act shall be admissible in evidence against any person in any court or at any inquiry or in any other proceedings and no evidence in respect of proceedings before the Ombudsman shall be given against any person.
- (6) No person shall be liable to prosecution for an offence against the Official Secrets Act, 1911 to 1939 of the United Kingdom, or any written law other than this Act by reason of his compliance with any requirement of the Ombudsman under this section.
5. (1) Where the Attorney General certifies that the giving of any information or the answering of any question or the production of any document or paper or thing –
- (a) might prejudice the security, defence or international relations of Trinidad and Tobago
 - (b) including Trinidad and Tobago relations with the Government of any other country or with any international organizations;
 - (c) will involve the disclosure of the deliberations of Cabinet; or
 - (d) will involve the disclosure of proceedings of Cabinet or any Committee of Cabinet, relating to matters of a secret or confidential nature, and could be injurious to the public interest, the Ombudsman shall not require the information or answer to be given or, as the case may be, the document or paper, or thing to be produced.
- (2) Subject to subsection (1), no rule of law which authorises or requires the withholding of any document or paper, or the refusal to answer any question, on the ground that the disclosure of the document or paper or the answering of the question would be injurious to the public interest shall apply in respect of any investigation by or proceedings before the Ombudsman.

CHAPTER 2:52 - OMBUDSMAN ACT

CONT'D

<p>SECURITY OF INFORMATION</p>	<p>6. A person who performs the functions appertaining to the Office of the Ombudsman or any office or employment there under – (a) shall regard as secret and confidential all documents, information and things which have been disclosed to any such person in the execution of any provisions of Sections 93 and 96 of the Constitution, so, however, that no disclosure made by any such person in proceedings for an offence under Section 10, or under the Perjury Ordinance by virtue of Section 4(2) or which the Ombudsman considers it requisite to make in the discharge of any of his functions and for the purpose of executing any of the said provisions of Section 3(4) or Section 9, shall be deemed inconsistent with any duty imposed by this paragraph; and (b) shall not be called upon to give evidence in respect of, or produce, any such documents, information or things in any proceedings, other than proceedings mentioned in the exception to paragraph(a)</p>
<p>NOTICE OF ENTRY ON PREMISES</p>	<p>7. Before entering upon any premises pursuant to Section 97(2) of the Constitution the Ombudsman shall notify the principal officer of the department or the authority which the premises are occupied.</p>
<p>DELEGATION OF POWERS</p>	<p>8. (1) With the prior approval in each case of the Prime Minister, functions hereinbefore assigned to the Ombudsman may from time to time, by direction under his hand, be delegated to any person who is appointed to any office or to perform any function referred to in Section 6. (2) No such delegation shall prevent the exercise of any power by the Ombudsman. (3) Any such delegation may be made subject to such restrictions and conditions as the Ombudsman may direct, and may be made either generally or in relation to any particular case or class of cases. (4) Any person purporting to perform any function of the Ombudsman by virtue of a delegation under this section shall, when required to do so, produce evidence of his authority to exercise the power.</p>
<p>REPORTS</p>	<p>9. (1) The Ombudsman may from time to time in the public interest publish reports relating generally to the exercise of his functions or to a particular case or cases investigated by him, whether or not the matters to be dealt with in such reports may have been the subject of a report to Parliament. (2) The form of statistics of complaints received by the Ombudsman and the results of his investigation required by Section 96(5) of the Constitution to be included in the annual report to Parliament by the Ombudsman on the performance of his functions shall be prescribed by regulations made under Section 12.</p> <p>10. A person is liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months who – (a) without lawful justification or excuse, wilfully obstructs, hinders or resists the Ombudsman or any other person in the exercise of his powers under this Act; (b) without lawful justification or excuse refuses or wilfully fails to comply with any lawful requirement of the Ombudsman or any other person under this Act; (c) wilfully makes any false statement to or misleads or attempts to mislead the Ombudsman or any other person in the exercise of his powers under this Act; or (d) in a manner inconsistent with his duty under Section 6 (a), deals with any documents, information or things mentioned in that paragraph.</p>
<p>PRESCRIPTION OF AUTHORITIES SUBJECT TO THE OMBUDSMAN'S JURISDICTION</p>	<p>11. (1) The authorities mentioned in the Schedule are authorities to which Section 93(3) (d) of the Constitution applies. (2) The President may, by Order, amend the Schedule by the addition thereto or deletion therefrom of any authorities or the substitution therein, for any authorities of other authorities.</p>
<p>REGULATIONS</p>	<p>12. The President may make regulations for the proper carrying into effect of this Act, including in particular, for prescribing anything required or authorised to be prescribed.</p>

APPENDIX VII - Schedule



OFFICE OF THE OMBUDSMAN
OF TRINIDAD AND TOBAGO

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Schedule of Visits

Roxborough (Tobago)	Every three months on the second Tuesday of the month
Point Fortin	2nd Wednesday each month
Chaguanas	2nd Friday each month
Siparia	3rd Monday each month
Sangre Grande	Last Tuesday each month
Rio Claro	Last Thursday each month
Couva	3rd Wednesday each month

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Schedule of Visits

Schedule of Monthly Community Visits

The Office of the Ombudsman maintains a schedule of visits to communities to facilitate individuals with complaints against state agencies. Anyone wishing to lodge a complaint, or to seek follow-up consultation with regard to complaints they may have already filed, may visit the Ombudsman's representative at:

Area	Location	Date	Time
Roxborough (Tobago)	Office of the Justice of the Peace, at the Court House facility	Every three months on the second Tuesday of the month	9:30 a.m. to 12 noon
Point Fortin	The Engineering Services Building, Pt.Fortin Borough Corporation	2 nd Wednesday each month	9:30 a.m. to 12 noon
Chaguanas	Deputy Mayor's Office, cor. Taitt & Cumberbatch Streets, Chaguanas	2 nd Friday each month	9:30 a.m. to 12 noon
Siparia	Siparia Regional Corporation	3 rd Monday each month	9:30 a.m. to 12 noon
Sangre Grande	Sangre Grande Regional Corporation	Last Tuesday each month	9:30 a.m. to 12 noon
Rio Claro	Mayaro/Rio Claro Regional Corporation, cor. Doughdeen St. & de Verteuil Street, Rio Claro	Last Thursday each month	9:30 a.m. to 12 noon
Couva	Couva/Tabaquite/Talparo Regional Corporation (main building)	3 rd Wednesday each month	9:30 a.m. to 12 noon

There is also a fulltime branch unit of the **Office of the Ombudsman in Scarborough, Tobago**, located in the **Caribana Building**, Bacolet Street, Scarborough. Contact info there is **639-1303** (phone) and **639-1302** (phone/fax). E-mail: tgoregion@ombudsman.gov.tt

Staff at another full time branch serve the public at the corner of Hobson & Kelshall Streets in San Fernando . Contact info: **652-6786** (phone) & **652-0404** (fax). E-mail: sandoregion@ombudsman.gov.tt



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NASSAU

THE BAHAMAS

ATLANTIC OCEAN

CUBA

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JAMAICA

PUERTO RICO

ST. KITTS & NEVIS

ANTIGUA & BARBUDA

GUADELOUPE

DOMINICA

MARTINIQUE

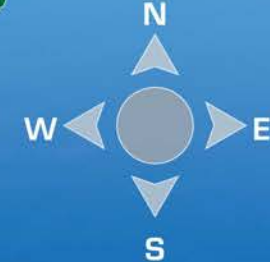
ST. LUCIA

BARBADOS

ST VINCENT & THE GRENADINES

GRENADA

CARIBBEAN SEA



NICARAGUA

ARUBA

NETHERLANDS ANTILLES

COSTA RICA

PANAMA

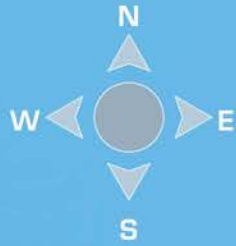
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