

31st ANNUAL REPORT



TRINIDAD & TOBAGO
OFFICE OF THE OMBUDSMAN

2008

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OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

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8th October 2009

Honourable Speaker
Parliament of Trinidad and Tobago
Red House
Abercromby Street
PORT OF SPAIN.

Dear Mr. Speaker

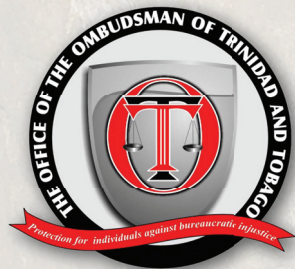
I have the honour to present the THIRTY-FIRST ANNUAL REPORT of the OMBUDSMAN for the period January 01, 2008 to December 31, 2008.

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

Yours faithfully,

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





“Today, the Office is significantly different in structure, personnel and method of operation from the institution which opened its doors to the public on December 6, 1977. However, the key features of its existence, namely – *independence, impartiality, flexibility and credibility* – remain.”

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



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OMBUDSMAN'S OVERVIEW



Overview



The Office of the Ombudsman of Trinidad and Tobago was established pursuant to the provisions of the Constitution of the Republic of Trinidad and Tobago (*Act No. 4 of 1976*). The Office has been in existence for thirty one years and I believe it can reflect with justifiable pride on its achievements in assisting thousands of persons to resolve differences in their dealings with public sector agencies.

Today, the Office is significantly different in structure, personnel and method of operation from the institution which opened its doors to the public on *December 6, 1977*. However, the key features of its existence, namely – independence, impartiality, flexibility and credibility – remain. I am happy to say that the Office of the Ombudsman will continue to perform a valuable and essential service in assisting citizens and non-citizens to experience fairness in their dealings with Government and in ensuring that public sector agencies improve their standards of service to the national community.

It is noteworthy that more persons have become aware of the service offered by the Office of the Ombudsman. However, when individuals request assistance in respect of matters which are not subject to investigation by the Ombudsman as prescribed under the Third Schedule of the Constitution, those persons are so informed.

In 2008 a total of **1309** complaints were received. The challenges alluded to in my **Twenty-Ninth and Thirtieth Annual Reports** are still ever present. I can only reiterate my observation that *public officers must acknowledge the authority of the Office* created under the Constitution to investigate and resolve issues of maladministration and bureaucratic injustice in public sector agencies.

I appreciate the support provided during 2008 by members of staff in the Office of the Ombudsman.

Administrative & Other Matters



I attended the **Fifth Biennial Regional Conference of the Caribbean Ombudsman Association (CAROA)** which was held in Bermuda from *April 27, 2008 to May 2, 2008*. Mrs. Marsha Samaroo-Calcut, Investigator, accompanied me. The theme of the Conference was *'Foundations of Good Governance — Sharing Best Practices'*.

Ombudsmen of Antigua and Barbuda, Barbados, St. Lucia, Haiti, Jamaica, Curacao, Cayman Islands, Turks and Caicos Islands and Belize and various staff members were also in attendance. International attendees included the Public Defender of South Africa, the President of the International Ombudsman Institute, the U.K. Commissioner/National Health Ombudsman, the Ombudsman of Ontario, Canada and the Ombudsman of Gibraltar.

The forum was hosted by the Bermudan Ombudsman in collaboration with the Commonwealth Secretariat. Mrs. Donna Mollineau-Hyndman, Senior Investigator and I attended the Second Regional Meeting of the Central American Council of Ombudsmen (CCPDH) and the Caribbean Ombudsman Association (CAROA) which was held at Montego Bay, Jamaica from June 18 to June 20, 2008. That meeting sought to develop and formalize the operating plans/strategies for the implementation of joint programmes and other mechanisms of cooperation. It was coordinated in collaboration with the Inter-American Institute of Human Rights which served as the Technical Secretariat of CCPDI. In September 2008, Cabinet approved the attendance of Ms. Martina Phillip, Senior Investigator, at a Commonwealth Secretariat Regional Seminar on the U.N. Human Rights Council Universal Periodic Review which was held in Barbados from October 6 to 8, 2008.

I also attended the **Commonwealth Forum for National Human Rights Institutions (CFNHRI)** on October 20, 2008 and the Ninth International Conference of National Human Rights Institutions (NHRIs) from *October 21 to 24, 2008*. These meetings were held in Nairobi, Kenya. The first meeting considered a number of issues related to strengthening the capacity of NHRIs and other national mechanisms in advancing human rights at a national level. The theme of the second meeting was "National Human Rights Institutions and the Administration of Justice".

Overall, the focus of the Office during 2008 was on the examination and fine-tuning of its systems for service delivery and on the consolidation of partnerships with our key stakeholder groups. In this regard, in May 2008 the Office held a **Strategic Planning Retreat** over a period of two days. Our goal was to develop a **Three Year Corporate Plan** for the Office. The Retreat was facilitated by *Dr. Gwendoline Williams and Maria Mason-Roberts and Associates*. There was a recall session in August 2008 to review the **Draft Corporate Plan 2008 — 2011** and make amendments as necessary. As a follow-up exercise, a **Business Planning Workshop** was held in December 2008.

In a similar vein, the strengthening of our staff resources, particularly via appropriate training opportunities, was a key feature of the period under review. Provided hereunder is an indication of the range of training and staff development programmes conducted in 2008. These programmes were aimed at achieving continuous improvement in all areas of the office's operations.

Training & Development



Members of staff attended and participated in the following workshops and programmes:

- **When Citizens Complain:** The role of the Ombudsman in improving public services. Public Administration International, U.K 12th - 23rd May 2008.
- Freedom of Information: **Achieving Open And Transparent Government**, Public Administration International, U.K 31st March - 4th April, 2008.
- **Alternative Dispute Resolution** (Basic and Advanced) Stitt Feld Handy Group, University of Windsor, Canada.
- **'Money, Messages and Metrics'** (Measuring the Effectiveness of Corporate Communications Programmes) – April 2008
- **"In the Eye of the Storm: Managing Crisis Communications in a Volatile Environment"** – June, 2008
- Introduction to Project Management.
- Oracle Database IOG Administrative Workshop.
- Local Government Reform – Embracing a new vision of doing business for the people.
- Dale Carnegie – Effective Communications and Human Relations.
- OSHA Fundamentals Team Training.
- Speed Machine Shorthand.
- Organizational Development.
- Administrative Professional Workshop.
- Effective Business Writing.
- Change Management Skills.
- Telephone Etiquette.
- Cabinet Note Writing.

STATISTICAL OVERVIEW



Statistical Overview 2008



During the year 2008 a total number of one thousand, three hundred and nine (1309) complaints were received at the Office of the Ombudsman. This figure represents a 2% increase in the number of complaints received in the previous year and includes matters that are governed by the Freedom of Information Act and Referrals. Two hundred and eighty-six (286) or 21.8% of the new complaints were against private organizations whose matters fall outside my jurisdiction. In all instances these matters were referred to the relevant agencies mandated to handle those concerns or complainants were advised of the appropriate action to be followed in order to have their matters addressed.

Investigations were commenced on one thousand and twenty-three (1023) complaints which represent 78.2% of the new complaints received. At the close of the year, investigations were concluded on three hundred and forty-three (343) complaints or 33.5% of the complaints received. A total of six hundred and eighty (680) complaints or 66.5% remained under investigation.

Table I shows the number of new complaints received in 2008 and the manner of their disposal. **Table II** shows the number of complaints brought over from previous years, the number received for the year 2008 and the manner of their disposal.

Statistical Overview 2008



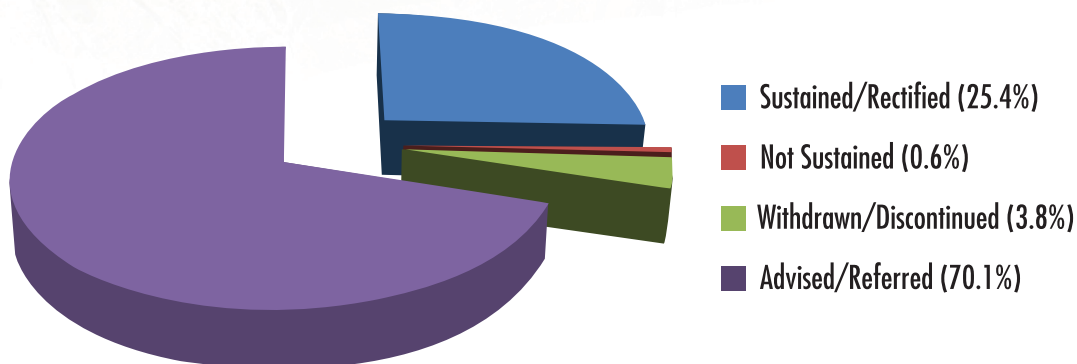
TABLE I

STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD **JANUARY - DECEMBER 2008**

	NUMBER	PERCENTAGE
Total number of complaints received in 2008	1309	100
Total number of complaints without jurisdiction	286	21.8
Total number of complaints proceeded with	1023	78.2
Total number of complaints concluded	343	33.5
■ Sustained/Rectified	87	25.4
■ Not Sustained	2	0.6
■ Withdrawn/Discontinued	13	3.8
■ Advised/Referred	241	70.1
Freedom of Information Act Referrals	23	1.8
Referrals	161	12.3
TOTAL UNDER INVESTIGATION AS AT DECEMBER, 2008	680	66.5

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

Total Number Of New Complaints Concluded In 2008



Statistical Overview 2008



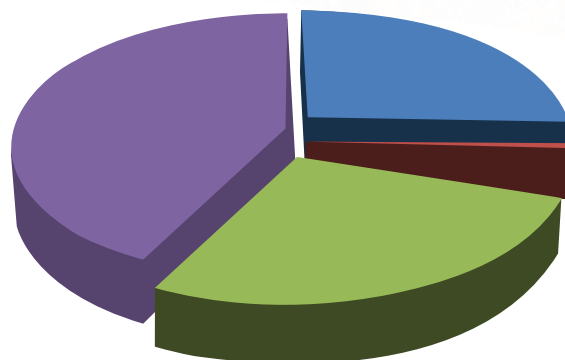
TABLE II

STATISTICS ON NEW COMPLAINTS RECEIVED DURING THIS REPORTING PERIOD AND THOSE BROUGHT FORWARD FROM PREVIOUS YEARS

	NUMBER	PERCENTAGE
Total number of complaints brought forward from previous years	3150	
Total number of complaints received in 2008	1309	
TOTAL	4459	
<i>*(Less total number of complaints without jurisdiction)</i>	<i>(286)</i>	<i>(6.4)</i>
Total number of complaints proceeded with	4173	93.6
Total number of complaints concluded	856	20.5
■ Sustained/Rectified	213	25
■ Not Sustained	7	1
■ Withdrawn/Discontinued	235	27
■ Advised/Referred	401	47
Freedom of Information Act	23	0.5
Total Referrals	161	4
UNDER INVESTIGATION AS AT DECEMBER, 2008	3317	79.5

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

Total Complaints (New & Brought Forward) Concluded In 2008



- Sustained/Rectified (25%)
- Not Sustained (1%)
- Withdrawn/Discontinued (27%)
- Advised/Referred (47%)

Statistical Overview 2008



It is to be noted that the workload for the period under review comprised the investigation of four thousand, four hundred and fifty-nine (4459) complaints. This figure represented the total of one thousand, three hundred and nine (1309) new complaints in addition to three thousand, one hundred and fifty (3150) unresolved matters brought forward from previous years.

At the end of 2008 investigations on eight hundred and fifty-six (856) complaints were concluded and a total number of three thousand, three hundred and seventeen (3317) complaints remained under investigation. Table III shows in detail the number of complaints received in 2008 against ministries and state agencies and the manner of their disposal during the same period.

TABLE III
DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF MINISTRIES/DEPARTMENTS

MINISTRY/AUTHORITY/AGENCY	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
Agriculture, Land, and Marine Resources	39	2	0	1	35	1
Attorney General	2	0	0	0	2	0
Caroni (1975) Limited	2	1	0	0	1	0
Chief Personnel Officer (CPO)	2	0	0	0	2	0
Community Development, Culture and Gender Affairs	15	0	0	2	13	0
Education	45	6	0	5	34	0
Elections and Boundaries Commission	1	0	0	1	0	0
Energy and Energy Industries	1	0	0	0	1	0
Environmental Management Authority	6	0	0	0	6	0
Finance	25	5	0	2	18	0
Foreign Affairs	2	0	0	0	2	0
Health	81	9	0	15	52	5
Information	1	0	0	0	1	0
Judiciary	6	2	0	1	3	0
Labour and Small and Micro Enterprise Development	9	1	0	0	7	1
Legal Affairs	16	0	0	4	12	0
Legal Aid and Advisory Authority	3	0	0	0	3	0
Local Government	3	0	0	2	1	0
▪ Borough Corporations	6	0	0	0	6	0
▪ City Corporations	12	3	0	1	8	0
▪ Regional Corporations	104	6	0	7	89	2
Magistracy	7	0	0	2	5	0
National Insurance Board	79	4	1	17	56	1

TABLE III Cont'd
DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF MINISTRIES/DEPARTMENTS

MINISTRY/AUTHORITY/AGENCY	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
National Security	2	0	0	0	2	0
▪ Defence Force	2	0	0	0	2	0
▪ Fire Services	5	0	0	0	5	0
▪ Immigration	4	1	0	0	3	0
▪ Police (Administrative Matters)	20	4	0	0	15	1
▪ Prisons	11	1	0	0	10	0
Planning, Housing and the Environment	52	7	0	2	42	1
▪ Housing Development Corporation (HDC)	1	0	0	0	1	0
Port Authority	1	0	0	0	1	0
Public Administration	2	0	0	0	2	0
Public Service Appeal Board	1	0	0	1	0	0
Public Transport Service Corporation	2	1	0	1	0	0
Public Utilities	3	0	0	1	2	0
▪ T&TEC	12	0	0	3	9	0
▪ TTPast	2	0	0	0	2	0
▪ WASA	19	8	0	2	9	0
Science, Technology and Tertiary Education	4	0	0	3	1	0
Service Commissions Department	15	6	0	3	6	0
Social Development	63	3	0	1	59	0
Sport and Youth Affairs	7	0	0	1	6	0
Telecommunications Services of Trinidad and Tobago	1	0	1	0	0	0
Tobago House of Assembly						
▪ Agriculture, Marine and the Environment	6	0	0	0	6	0
▪ Division of Community Development and Culture	1	0	0	0	1	0
▪ Education, Youth Affairs and Sports	13	0	0	1	12	0
▪ Finance and Planning	1	0	0	0	1	0
▪ Health and Social Services	13	2	0	1	10	0
▪ Infrastructure and Public Utilities	34	1	0	1	32	0
Public Administration	3	1	0	0	2	0
▪ Tourism, Transportation, Enterprise Development and Settlements	5	0	0	1	4	0
Tourism	2	0	0	1	1	0
Trade and Industry	1	1	0	0	0	0
Works and Transport	56	5	0	4	46	1
▪ Unemployment Relief Programme (URP)	8	0	0	0	8	0
Freedom of Information Act, 1999	23				23	
Referrals	161	161				
TOTAL	1023	241	2	87	680	13
Private	286					
GRAND TOTAL	1309	241	2	87	680	13

TABLE IV

THE MINISTRIES/AGENCIES WITH THE HIGHEST NUMBER OF COMPLAINTS ARE LISTED BELOW:	
Ministry of Local Government	133
Ministry of Health	81
National Insurance Board	79
Tobago House of Assembly	76
Ministry of Social Development	63
Ministry of Works and Transport	56
Ministry of Planning, Housing and the Environment	53
Ministry of Education	45
Ministry of National Security	44
Ministry of Agriculture, Land and Marine Resources	39

As in previous years the highest number of complaints received at my Office has been against the Ministry of Local Government and the Regional Corporations. However, during this reporting period a total number of one hundred and thirty-three (133) complaints were received as compared to one hundred and forty-eight (148) in 2007, a decrease of 10%. On the other hand, there were increases in the number of complaints made against the Ministries of Health, Education and National Security.

The most significant increase was in the complaints lodged against the National Insurance Board (NIB). In 2008 a total number of seventy-nine (79) complaints were received as compared to thirty-six (36) in 2007, an increase of 119.4%. The complaints related mainly to the failure of the NIB to approve the grant of Sickness, Invalidity, or Injury Benefits to insured persons. Other recurring complaints were primarily associated with the NIB's delay in approving the payment of Retirement Benefit or Funeral Grant to an insured person or to the person who met the cost of funeral expenses of a deceased insured person.

Outreach Services



A total of eight hundred and fifty-three (853) persons accessed the services of my Office at the Regional Offices during the year 2008.

Table V below shows the number of persons who visited the Regional Offices for each month during the year 2008.

TABLE V

MONTHS	POINT FORTIN	RIO CLARO	SAN FERNANDO	CHAGUANAS	SANGRE GRANDE	SIPARIA	COUVA	ROXBOROUGH	TOTAL
January	3	12	7	12	11	9	18	NO VISIT	72
February	8	11	21	8	12	13	13	0	86
March	18	12	24	10	NO VISIT	15	13	0	92
April	4	9	33	6	16	7	7	6	88
May	7	10	21	4	15	7	12	0	76
June	8	10	19	10	10	2	5	0	64
July	7	8	12	5	22	14	9	2	79
August	3	16	20	5	10	10	8	0	72
September	8	8	16	8	9	4	16	0	69
October	4	10	19	8	2	17	6	1	67
November	1	13	15	3	10	8	13	0	63
December	3	NO VISIT	15	7	NO VISIT	NO VISIT	NO VISIT	0	25
TOTAL	74	119	222	86	117	106	120	9	853

**Visits to Roxborough occur on a quarterly basis*



For the year 2008 a total of one hundred and twenty-six (126) complaints were lodged at the Tobago Regional Office. Additionally, two hundred and fifty-nine (259) matters were brought forward from previous years.

The Tobago Office's workload for 2008 therefore comprised the investigation of three hundred and eighty-five (385) complaints. Investigations were finalized on one hundred and ninety-three (193) complaints while one hundred and seventy-five (175) complaints remained under investigation at the close of the reporting year.

TABLE VI
TOBAGO REGIONAL OFFICE – STATISTICS ON COMPLAINTS RECEIVED DURING THIS REPORTING PERIOD AND THOSE BROUGHT FORWARD FROM PREVIOUS YEARS

	NUMBER	PERCENTAGE
Total number of complaints brought forward from previous years	259	
Total number of complaints received in 2008	126	
TOTAL	385	100
<i>*(Less total number of complaints without jurisdiction)</i>	<i>(17)</i>	<i>(4.5)</i>
Total number of complaints proceeded with	368	95.5
Total number of complaints concluded	105	28.5
▪ Sustained/Rectified	44	
▪ Not Sustained	22	
▪ Withdrawn/Discontinued	13	
▪ Advised/Referred	26	
Under Investigation as at December, 2008	263	71.5

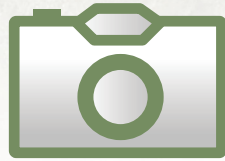
▪ These figures represent % of the number of complaints concluded



TABLE VII
DISTRIBUTION OF COMPLAINTS FROM TOBAGO FOR THE PERIOD JANUARY TO DECEMBER 2008

MINISTRY/AUTHORITY/AGENCY	Total No. of Complaints	Advised/ Referred	Not Sustained	Sustained/ Rectified	Under Investigation	Withdrawn/ Discontinued
TOBAGO HOUSE OF ASSEMBLY						
<i>Agriculture, Marine and the Environment Division</i>	6	0	0	0	6	0
<i>Division of Community Development and Culture</i>	1	0	0	0	1	0
<i>Education, Youth Affairs & Sports Division</i>	13	0	0	1	12	0
<i>Finance and Planning Division</i>	1	0	0	0	1	0
<i>Health and Social Services Division</i>	13	2	0	1	10	0
<i>Infrastructure & Public Utilities Division</i>	34	1	0	1	32	0
<i>Public Administration</i>	3	1	0	0	2	0
<i>Tourism, Transportation, Enterprise Development and Settlements Division</i>	5	0	0	1	4	0
OTHER AGENCIES						
<i>Finance - Inland Revenue</i>	1	0	0	0	1	0
<i>Finance - Customs and Excise</i>	2	1	0	0	1	0
<i>Judiciary</i>	3	2	0	0	1	0
<i>National Insurance Board</i>	5	0	0	1	4	0
<i>National Security - Immigration</i>	2	1	0	0	1	0
<i>National Security - Defence Force</i>	1	0	0	0	1	0
<i>National Security - Police</i>	4	1	0	0	3	0
<i>National Security - Prisons</i>	1	1	0	0	0	0
<i>Planning, Housing and the Environment</i>	2	1	0	0	1	0
<i>Port Authority</i>	1	0	0	0	1	0
<i>Public Transport Service Corporation</i>	2	1	0	1	0	0
<i>Public Utilities - T&TEC</i>	1	0	0	0	1	0
<i>Public Utilities - Water and Sewerage Authority</i>	6	5	0	0	1	0
<i>Public Utilities - Trinidad and Tobago Postal Services</i>	1	0	0	0	1	0
<i>Telecommunications Services of Trinidad and Tobago</i>	1	0	1	0	0	0
PRIVATE	17					
TOTAL	126	17	1	6	85	0

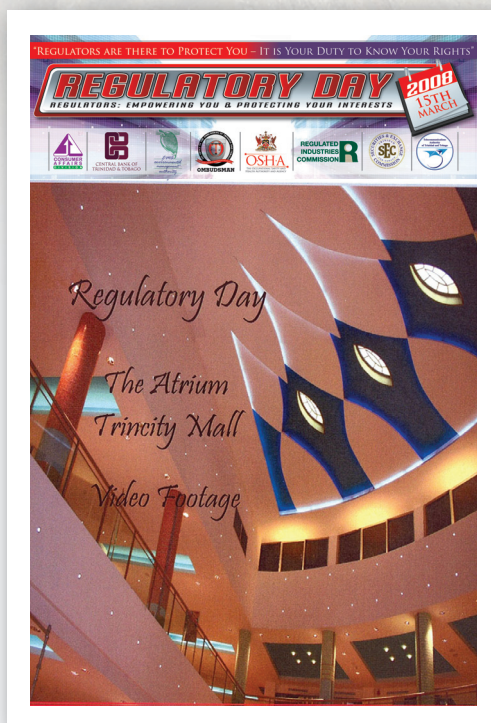
PICTORIAL HIGHLIGHTS



PICTORIAL HIGHLIGHTS



◀ One very positive feature of the year 2008 was the opportunity for a visit to the compound housing the administrative offices and workshop of the **Association for the Blind & Visually Impaired** in the city of San Fernando. The Ombudsman played a key role in facilitating timely completion of works on these new facilities during 2008.



◀ The Office of the Ombudsman participated during 2008 in a project aimed at highlighting the importance of regulatory agencies in Trinidad & Tobago. The project was launched with an event labelled **Regulatory Day**, held at the **Trincity Mall** atrium on March 15.



PICTORIAL HIGHLIGHTS cont'd



Members of staff relax and refresh themselves during a break from workshop activity at the strategic review retreat session, held at a remote location during 2008.



Ombudsman Stephenson (seated) and her Executive Officer Mrs Yvette Hall at work.



Still image captured from a promotional video programme on the Office of the Ombudsman aired during 2008.



*Still image captured from the Ombudsman's guest appearance on **Rise & Shine**, a TV-talk feature aired on Tobago Channel 5 TV.*



CASE NOTES

from the
Ombudsman's Files





ELECTIONS & BOUNDARIES COMMISSION **DENIAL OF RETIREMENT BENEFITS**

The complainant was a *Temporary Part-Time Itinerant Assistant Registration Officer* who was employed by the **Elections and Boundaries Commission** during the period *June 9, 1969 to December 31, 1999*.

During her employment, she was required to work three (3) days per week and was not entitled to paid vacation or sick leave. In 1990, in preparation for her retirement, the Complainant wrote to the then Chief Election Officer enquiring about the pension benefits to which she would be entitled, given the peculiar circumstances of her employment.

By letter dated *June 7, 1990* the Complainant was informed inter alia:

“.....due to the nature of your employment with the Elections and Boundaries Commission, you are not entitled to pension benefits. However, at the termination of your service with the Department, steps will be taken to approach Cabinet for an ex-gratia payment in lieu of pension benefits to be awarded to you.”

In September, 2001, more than a year after her separation from the service, she had not been paid the promised ex-gratia award. She then sought the assistance of the Ombudsman to resolve the matter. The issue was brought to the attention of the Chief Election Officer by letter dated *October 22, 2001*. Subsequently, **eleven (11) reminders** were issued during the period November 2001 to March 2004 but no responses were received.

The Chief Election Officer eventually responded by Memorandum dated *August 15, 2006* in which he advised as follows:

“the Department has also decided that steps will be taken to approach Cabinet for an ex-gratia payment in lieu of pension benefits to be awarded to the officer.”

It should be noted that eighteen (18) years after the complainant had been informed of the decision that steps would have been taken to approach Cabinet for the payment of an ex-gratia payment and more than eight (8) years after her separation from the service, there is no evidence to indicate that the matter was ever referred to Cabinet.

Moreover, by letter dated *October 16, 2007* the **Chief Election Officer** was requested to submit a status report on the matter to this Office. More than one (1) year later, he had not responded. More than eight (8) years have elapsed since the complainant's separation from the service and she is yet to receive the promised ex-gratia payment.

The matter is still being pursued.



CHAGUANAS BOROUGH CORPORATION

NO END IN SIGHT FOR FLOODING WOES

The Complainant contacted the Ombudsman in October 2004 about the failure of the **Chaguanas Borough Corporation** to clear a clogged drain which he said was blocked by his neighbour. He stated that he had first approached the Corporation about the problem in July 1998. According to him, the last time the drain was cleaned was in 1986. The Complainant operates a small business and as a result of the smell emanating from the clogged drain, he was often forced to cease all operations which resulted in much loss of income.

In August 1998, the Business Development Manager of the Small Business Development Company Limited wrote a letter to the Chaguanas Borough Corporation stating that the water course was an integral part of their client's business operation in terms of survival and profitability. The delay in cleaning the clogged drain was severely affecting his livelihood as his property flooded every time it rained.

My Office subsequently pursued the matter with the Corporation in October 2004. In June 2005, the Corporation gave the assurance that provision for the construction of a box drain would be made under its next *Infrastructure Renewal and Development Programme (IRAD)*.

On January 5, 2006, my predecessor wrote a letter to the Chief Executive Officer, Chaguanas Borough Corporation informing him that there was no reason why the Corporation should not take action against the offender in accordance with Section 145 of the Municipal Corporations Act, Chap. 25:04 which states as follows:

“a person who impedes the free flow of water in –

(a) any ditch, drain or watercourse in or adjoining any street within a Municipality;

(b) any ditch, drain or watercourse on any land into or through which water from any such street flows or any ditch, drain or watercourse under any such street,

is guilty of an offence and is liable to a fine of one thousand dollars and to a further fine of one hundred dollars for each day the offence continues after conviction.”



In response, the Corporation issued a letter dated February 6, 2006 stating that the Corporation did not have the authority to take any action to remove the blockage. By letter dated April 6, 2006, the Chief Executive Officer was advised that in accordance with section 145 of the Municipal Corporations Act, the Corporation could take action against the offending party.

In response to that letter, the Corporation agreed that the construction of the box drain would be included in the 2006/2007 IRAD Programme. In March 2007, the Office was told that in an effort to facilitate the disposal of waste water from the Complainant's premises, the Chaguanas Borough Corporation had included the construction of 100 metres of box drain under its 2006/2007 Drainage and Irrigation Programme. However, since this programme was not going to be funded by the Ministry of Local Government in 2007, the project involving the construction of a box drain would be included in either the 2007/2008 IRAD or the Corporation's overall Development Programme, subject to the Council's approval.

The then Minister of Local Government was written to in September 2006 asking him to look into the matter. No response was ever received. In 2007, the Permanent Secretary, Ministry of Local Government was asked that some initiative be taken to put the project on the IRAD Programme in order to alleviate the flooding of the Complainant's property. The Mayor, Chaguanas Borough Corporation was written to on three occasions between July to December 2008 asking that a report be sent to the Ombudsman. These letters were never acknowledged.

Having regard to the history of this matter, the Complainant is of the view that the box drain will never be built.

The matter is still being pursued.



NO SANCTION RE: SUSPECTED UNAUTHORISED STRUCTURE

The Complainant, a resident of Belmont was concerned over an encroachment onto his property by the owner of an adjacent property.

The Complainant stated that his neighbour erected a building on the northern side of the Complainant's house. The Complainant believed that this building was constructed without the approval of the ***Town and Country Planning Division***. He indicated that the land on which the building was constructed was previously designated for the road reserve. He reported the matter to the Town and Country Planning Division of the **Ministry of Planning and Development** in December 2006.

After several attempts to access information from the Town and Country Planning Division had proven futile, the Complainant, on December 05, 2007, sought the intervention of the Ombudsman.

Thereafter, the Ombudsman, in December 2007, requested a report from the Director, Town and Country Planning Division. Despite several reminders, the construction of the building continues to date and the Town and Country Planning Division is yet to respond.



COUVA/TABAQUITE/TALPARO REGIONAL CORPORATION

A CASE OF ADMINISTRATIVE INDIFFERENCE?

In 2003, the Complainant who lives in Central Trinidad, complained that her neighbour's waste water and flood water were flowing through her property and causing a health hazard. The matter was brought to the attention of the **County Medical Officer of Health** in **June 2004**. In August 2004, I was advised that a Departmental Notice had been sent by the County Medical Officer of Health (Caroni) to the **Couva/Tabaquite/Talparo Regional Corporation** recommending that the Corporation execute remedial works. The matter was then pursued with the Couva/Tabaquite/Talparo Regional Corporation.

Seven reminders were sent to that Corporation's **Chief Executive Officer** (between **October 2004 to March 2006**) without response. In April 2006, I was advised that there was a need for the construction of a **box drain** 35 metres long by 1 meter deep by 1.2 metres wide to channel the flow of water, thus preventing the erosion of the Complainant's property. The cost of the Development Project (estimated at \$50,000.00) had to be included in the Corporation's **Draft Estimates of Expenditure**.

In August 2006, the assistance of the Honourable **Minister of Local Government** was sought to source funds to complete the box drain. I informed the Minister of what seemed to be a disturbing trend. It appeared that problems were being dealt with on the basis of political affiliation, real or imagined. I asked the then Minister to use his office to assist in alleviating the Complainant's problem. In November 2007, I was advised by the Regional Corporation that the estimated cost of the project had increased to \$75,000.00 and that the Councillor for the area was the person to include the project and costing on the Draft Estimates. The matter was again raised with the Ministry of Local Government and the Couva/Tabaquite/Talparo Regional Corporation. In June 2008, the Permanent Secretary, Ministry of Local Government advised that the matter had been forwarded to the Council for approval to construct a box drain. However, since no action was taken by the Councillor for the area to bring the matter to the attention of the Council, the matter remained in abeyance.

The Permanent Secretary therefore recommended that the assistance of the Chairman of the Corporation be sought with a view to having the Councillor place the matter before the Council for urgent attention. In July 2008, I personally wrote to Mr. Geewan Mangroo, Chairman, of the Couva Tabaquite/Talparo Regional Corporation outlining the complaint and expressing the hope that he would use his office **to invite the relevant Councillor to act in accordance with the recommendation of the Permanent Secretary**. On August 5, 2008 that letter was returned subsequently to my office with the following notification **"Removed - Left no forwarding address"**.

On August 6, 2008, I wrote to the new Chairman Mr. Ramjit Ramnarine informing him that I expected that whoever held the position of Chairman at the relevant time would deal with the issues raised in the letter sent earlier to the former Chairman. Since that letter, two reminders dated September 17, 2008 and December 2, 2008 were sent to Mr. Ramnarine but these were not answered. The matter is still being pursued.

MINISTRY OF WORKS & TRANSPORT

PRIVATE EARTHWORKS CAUSE PUBLIC DISCOMFORT - A Case For The Drainage Division

The residents of Kanhai Trace South, Barrackpore approached the Ombudsman for assistance to have the Chiripan River cleared. The residents claimed that in the process of backfilling his property, a landowner blocked the original course of the Chiripan River, which passes through the said property.



BEFORE: *Narrow Channel, Blocked Stream*



AFTER: *Wider Channel, River Cleared*

Their complaint was that the Landowner, by digging a narrow channel elsewhere on his property to redirect the course of the river, caused a back-up and overflow onto their properties. As a result, they suffered significant loss of livestock and vegetable crops. This was especially evident whenever it rained heavily, since the artificial river channel was inadequate to accommodate the volume of water.

The residents sought assistance from various public departments to have the river cleared and widened but did not receive any help. Eventually, the Ministry of Works and Transport began the process of clearing and de-silting all natural water courses in the area under their jurisdiction. When the Ministry attempted to complete the de-silting of the river course that runs through the private land, the Ministry was stopped by the landowner, who refused to grant permission. It was at this point that the residents sought the Ombudsman's assistance.

Following representations made by the Ombudsman, and after discussion between the parties, the property owner relented and the de-silting work was completed, bringing an end to the flooding problems that were being experienced by the residents.



MINISTRY OF SPORT AND YOUTH AFFAIRS

PROBLEMS TO GET ALLOWANCES OWED

The Complainants, former Estate Constables, *Ministry of Sport and Youth Affairs*, sought the Ombudsman's assistance to obtain outstanding uniform allowance owed to them for the period 1992 - 1996.

The Complainants made unsuccessful attempts to obtain the allowance to which they were entitled while they were employed. Upon retirement, they continued to seek to obtain payment.

The Permanent Secretary, *Ministry of Sport and Youth Affairs* was requested to provide a report on the outstanding payment of uniform allowances. In response, the Ombudsman was informed that during the period 1994-1998, the Youth Development and Apprenticeship Centres at which the complainants were employed fell under the purview of the Ministry of Education. As a result, the Permanent Secretary, Ministry of Education was requested to verify whether payment was made to the Complainants for the years 1992 - 1996.

However, the claims for the years 1992 – 1993 were processed by the *Ministry of Sports and Youth Affairs* and the cheques were issued to the Complainants. Payment for the period 1994 to 1996, remains outstanding.

The matter is still being pursued.



VICTIM SEEKS COMPENSATION FOR FALL FROM DEFECTIVE CHAIR AT HALL OF JUSTICE

The Complainant sought the assistance of the Ombudsman in obtaining compensation for an injury he had sustained while on legitimate business at the Hall of Justice, Port of Spain.

The Complainant informed the Ombudsman that he had visited the Hall of Justice in November 2005 to obtain a copy of a judgement in a matter he had before the Court. While awaiting receipt of the document, he fell when a chair on which he was sitting collapsed.

He claimed that the incident had been witnessed by at least three other parties: a *Receptionist*, an *Assistant Registrar* who came to his assistance and a Security officer who was present at the time of the incident. The Complainant submitted to the *Court Executive Administrator* a medical report from a Specialist Orthopaedic Surgeon, which stated that a Magnetic Resonance Imaging (MRI) scan was required at a cost of three thousand, five hundred dollars (\$3,500.00), in addition to the need for possible further treatment.

On the Complainant's behalf, the Ombudsman raised the matter with the *Department of Court Administration* and was informed by the *Court Executive Administrator* that an investigation had been initiated and that his office would have communicated with the Complainant in due course.

Further enquiries were made on this matter and the Ombudsman was informed that there were inconsistencies in the various statements obtained. Subsequently, the Ombudsman was informed by the *Deputy Court Executive Administrator* that legal advice was sought from the Solicitor General in order to ascertain whether the Judiciary was liable for the injuries sustained by the Complainant, and if so, how much compensation should be paid to him.

The matter is being pursued.



TOBAGO HOUSE OF ASSEMBLY DIVISION OF EDUCATION YOUTH AFFAIRS AND SPORT

VICARIOUS LIABILITY

The Complainant submitted a complaint via the online option on the Office of the Ombudsman website, claiming that he was involved in an accident on October 11, 2007 with a vehicle belonging to the Division of Education, Youth Affairs and Sports. According to the complainant, the Police Report on the accident and the estimate for repairs to the vehicle were submitted to the Division but, up until the date of his complaint, he had not received a reply.

It was noted that:-

- 1. The Police Report indicated that the Driver of the Government vehicle was the offending party in the accident.*
- 2. The complainant's vehicle was a registered taxi and was his only source of income.*

The Ombudsman wrote to the Administrator, Division of Education, Youth Affairs and Sports highlighting the conclusion drawn in the Police Report and the implications with respect to cost and time should the matter reach to Court. The Administrator initiated the process to expedite payment of compensation, to the satisfaction of the complainant.



TOBAGO HOUSE OF ASSEMBLY
DIVISION OF TOURISM AND TRANSPORTATION
TOO MUCH 'RED TAPE' TO GET GRATUITY

The Complainant was an employee of the Department of Tourism in the ***Division of Tourism and Transport*** on contract for three years. In accordance with Clause 3. of the Contract Agreement, he was eligible for gratuity for the period 2005-2006.

The Complainant claimed that he made several requests for the outstanding payment, but his efforts were unsuccessful. As a result, in 2008 he requested the assistance of the Ombudsman to expedite the process.

Upon investigation, the Administrator informed the Ombudsman that the Division was awaiting a Statement of Indebtedness for the complainant from the Board of Inland Revenue.

The **Ombudsman** held several discussions with Officers at the Board of Inland Revenue and eventually the statement was forwarded to the Division of Tourism and Transportation.

Payment was processed and the Complainant received all outstanding monies.



DIVISION OF INFRASTRUCTURE AND PUBLIC UTILITIES

HIGHWAY DEVELOPMENT WORKS LEAVES OWNERS WITHOUT EASY ACCESS TO PROPERTY

In 1981, the Government acquired a portion of land owned by the Complainant and her family for the construction of the Claude Noel Highway in Tobago. This work left a portion of the property, situated at Rockly Vale, land-locked.

Subsequent requests to the Town and Country Planning Division for the development of the property were denied because of the lack of an access road in the area.

Due to this predicament, the Complainant made numerous representations to the Division of Infrastructure and Public Utilities and to the Office of the Chief Secretary, Tobago House of Assembly for the construction of an access road to the aforementioned property.

The Complainant claimed that although the Division assured that a road would be constructed to address this problem, there was no evidence to suggest that her requests had been considered. Furthermore, she became concerned that the family was being prevented from developing the property as it had since become a haven for drug addicts. As a consequence, in 2004, the Complainant approached the Ombudsman for assistance.

By letter dated November 19, 2004, the matter was referred to the Division of Infrastructure and Public Utilities for a report regarding the Division's proposed course of action.

In January 2005 investigations revealed that the Division had been liaising with similarly affected residents of the area in order to obtain permission to construct the road through their properties. In addition, arrangements were also in progress for the acquisition of funds to commence the project.

Two years later, the Complainant informed the Ombudsman that the situation remained unchanged and she still did not have proper access to the property. Although several reminders have been forwarded to the Division requesting at least a preliminary report on the matter, to date a response has not been forthcoming.

It has been noted that in addition to the Complainant and her family, there are other similarly affected persons in the area of Calder Hall and Rockly Vale who, due to the construction of the Claude Noel Highway, cannot adequately access their properties.

The matter is still being pursued.



MINISTRY OF SOCIAL DEVELOPMENT

SOCIAL WELFARE GRANT WITHHELD WITHOUT EXPLANATION

The Complainant, a single mother of two, had been a recipient of an Education Grant on behalf of her two daughters for several years. However, in June 2006, the Grant abruptly ceased. She then made several visits to the Social Welfare Office at Rio Claro to enquire into the matter. However, she was unable to obtain relevant information with respect to the reinstatement of the Grant.

On April 24, 2008, the Complainant sought the assistance of the Ombudsman to have the Education Grant re-instated. This Office subsequently wrote to the Social Welfare Advisor III, Mayaro/Rio Claro Social Welfare Office in an effort to have this matter resolved.

During the course of our investigations, efforts to determine why the grant was discontinued proved futile.

The Complainant subsequently informed the Ombudsman that on her visit to the Social Welfare Office on July 9, 2008 to enquire about the Grant, she was told by an Officer that she “had made it worse by going to the Ombudsman”. Further, she was informed that should the Grant be reinstated she would not be eligible to receive any retroactive payment.

This Complainant had submitted all the necessary documents required for the disbursement of the Grant, which had ceased through no fault of her own and to which she is entitled on behalf of her children.

This office will continue to pursue the matter.

It is pertinent to note that the Mission Statement quoted by this Social Welfare Office states in part, ***“To assist in empowering some of the Vulnerable Groups in the Society to enjoy a better quality of life by providing Financial and Social Assistance”.***



MINISTRY OF LOCAL GOVERNMENT – COUVA/TABAQUITE/TALPARO REGIONAL CORPORATION

ACCESS ROAD IN POOR STATE

The Complainant, a farmer had been cultivating a parcel of land in Mundo Nuevo, Talparo for several years. Due to the unavailability of a pipe-borne water supply, she along with other farmers have utilized Spring Trace No. 1 (Manakal Trace) to access a spring at the end of the said Trace.

The Complainant has been seeking to have the Couva/Tabaquite/Talparo Regional Corporation effect remedial works at Spring Trace No. 1 (Manakal Trace) since 2003 without success. With the passage of time, the Trace has deteriorated making it virtually impassable.

In 2006, the Complainant sought the assistance of the Ombudsman who then began pursuing the matter with the Chief Executive Officer, Couva/Tabaquite/Talparo Regional Corporation. This Office was eventually informed that the Trace in question is a private roadway, a statement which was strongly disputed by the Complainant.

Despite the Corporation's claim that the roadway is a private one, a report had been submitted by the Chief Executive Officer in which it was estimated that the cost of the repairs to the said Trace would amount to six hundred thousand dollars (\$600,000.00). The Corporation subsequently stated that Spring Trace No. 1 did fall within its jurisdiction.

The Complainant was informed of the capital expenditure required by the Corporation to effect the necessary repairs to Spring Trace No. 1. She then indicated that she and the other farmers would appreciate if some form of aggregate could be laid on the road to make it passable.

This information was communicated to the Corporation and a load of material was subsequently deposited at Spring Trace. However, no improvement works have yet been done. The Complainant continues to experience difficulties accessing her property. This matter is still being actively pursued.

MINISTRY OF LOCAL GOVERNMENT - SIPARIA REGIONAL CORPORATION

ALL'S WELL THAT ENDS WELL - BOX DRAIN COMPLETED

The Complainant of #4 Omarees Park, Pepper Village, Fyzabad complained to the Ombudsman that water was seeping from the roadside drain into his property.

The Complainant stated that water surfaced in his front yard in both sunny and rainy weather conditions, and that water had soaked his front yard *causing the concrete posts and walls of his house to crack in several places*. The water sometimes had a high stench and attracted a lot of flies.



The Drain after Remedial Works Were Done

The Ombudsman approached the Ministry of Local Government, **Siparia Regional Corporation** in 2006 to provide relief. The **Road Officer I** indicated that until the source of the water was located, remedial work could not be done. Eventually, the water seepage was found to be originating from the cracked inverts in the drain. The Road Officer prepared estimates to have the inverts in the drain removed and a box drain constructed. In 2008, funds were obtained to construct the box drain and in November 2008 the box drain was completed.

The Complainant informed the Ombudsman that the problem has been resolved.



SOCIAL WELFARE DIVISION

UNDUE DIFFICULTIES TO ACCESS SPECIAL CHILD GRANT

The Complainant, a single parent, had been a recipient (on behalf of her five-year-old daughter) of the ***Special Child Grant*** from the ***St. George East Local Public Assistance Board***. The Grant, which is administered by the Social Welfare Division, is intended for parents of children who have been certified as having a mental or physical disability.

In 2005, the Complainant relocated from the district of St. George East to St. George West, following which no further payments were made to her. When she enquired at the St. George East Local Board, she was informed that the area in which she now resided fell under the jurisdiction of the ***St. George West Local Public Assistance Board*** in Port of Spain and that any queries should be directed to that Office.

Despite several attempts by the Complainant to have the Local Board in Port of Spain investigate her matter, it was not until November 2007 that an Officer from the ***Social Welfare Division*** finally conducted a home visit. Following this visit, the Officer indicated that her file would be submitted to the Social Welfare Supervisor for further action.

Three months later, the Complainant's Grant was still outstanding. Moreover, she was unable to obtain information regarding the status of her matter, which led her to believe that the Local Board had not taken the necessary action. Thus, in February 2008, the Complainant sought the intervention of the Ombudsman in an effort to finally obtain the Special Child Grant on behalf of her daughter. The St. George West Local Public Assistance Board was requested by the Office to submit a report regarding the delay in having this matter addressed. The Board, however, did not initially respond. Several months later, the Local Board advised that the matter was under investigation and that a report would be forthcoming.

Further investigations by this Office revealed that there had been a backlog of similar applications at the Local Board. No Officer had been assigned to deal with such matters. As a consequence, the Complainant's case was still outstanding. It should be noted that an annual review of such cases must be conducted by all the Local Public Assistance Boards. It was apparent that the Local Board did not adhere to this requirement. It was clear that this Grant should be processed ***as a matter of urgency***, especially since the Complainant was a single parent with little means of support.

In view of the information received, this Office then sought the final intervention of the Head Office of the Social Welfare Division. An investigation and subsequent report into the matter were promised. As at October, 2008, after persistent enquiries, the Head Office subsequently advised that the Complainant's matter was being addressed and that a report would be forthcoming. However, to date, despite consistent assurances, the Social Welfare Division has not provided this Office with a written response.

The matter still remains outstanding.



PENSION CLAIM REJECTED ON UNREASONABLE GROUNDS

On June 29, 2005, the Complainant, a sixty-five year old citizen of Trinidad and Tobago, submitted a claim for the then named Old Age Pension Grant to the **Caroni Local Public Assistance Board, Social Welfare Division**. However, about one year later, he had not been paid. He was unable to obtain a response from the Local Board regarding the status of his claim for the aforementioned Grant.

As a result, in June 2006, the Complainant sought the intervention of the Ombudsman. This Office by letter dated July 11, 2006 requested a report from the Caroni Local Public Assistance Board. Two months later, the Local Board advised that the Complainant's claim had been rejected at the June 16, 2006 Local Board Meeting. In addition, on August 21, 2006, a Reject Notice had been served on him advising that he had been out of the country for a period of fifteen (15) years, seven (7) months and two (2) weeks within the twenty (20) year period immediately preceding the submission of his claim. Therefore, in accordance with the **Old Age Pensions (Amendment) Act No. 24 of 1996**, he lacked the required residential qualification.

It should be noted that with respect to residential qualification, Section 4 of this Act states inter alia:

(1) (b) the person must have been ordinarily resident in Trinidad and Tobago-

- (i) for a period of twenty years immediately preceding the claim for pension; or*
- (ii) for a period of sixty years in the aggregate;*

(2) For the purpose of computing residence in Trinidad and Tobago under subsection (1)(b)(i); any periods of temporary absence not exceeding five years in the aggregate, shall not be counted as periods of absence from Trinidad and Tobago.

Notwithstanding the above, the Complainant immediately lodged an appeal against the decision of the Caroni Local Public Assistance Board.

Accordingly, the Local Board forwarded the appeal to the **Central Public Assistance Board** for final consideration, and based on the facts presented, the Central Board upheld the Local Board's decision to reject the claim as the "claimant lacks residential qualification".



However, the Complainant was of the view that this decision was erroneous as he had not been out of the country for the period specified by both Boards. He claimed that although he had resided in the United States of America from 1965 to 1979, the twenty-year period which should have been under consideration at the time of the submission of his claim would have been from 1985 to 2005. In addition, he stated that he had relinquished his *alien resident* status since **November 01, 2002**.

Therefore, he sought to have his claim re-visited by the Social Welfare Division. However, his efforts proved futile. In June 2007 the Complainant again approached the Ombudsman for assistance to have the Social Welfare Division address his concerns. On an examination of the Complainant's passports, this Office disagreed with the Division's decision to reject his claim on the basis of *lack of residential qualification*. In fact, it appeared that the period spent out of Trinidad and Tobago had not exceeded the five year limitation mentioned in Section 4 (2) of the Old Age Pensions (Amendment) Act, 1996.

In light of the foregoing, it was evident that the Caroni Local Board and the Central Public Assistance Board had not assessed the claim in accordance with the Pensions Act. Accordingly, in view of the perceived discrepancy, attempts were made to have the Division review the Complainant's claim for the Grant. However, after no response from the Local Board, this Office by letter dated October 16, 2008 requested that the Central Public Assistance Board review the Complainant's claim for the now named Senior Citizens' Grant.

Three months later, by correspondence dated **December 05, 2008**, the Central Public Assistance Board informed the Ombudsman that the Complainant's matter had been discussed at the meeting held on **October 23, 2008**. The Board Members agreed to rescind the decision which had been taken at the meeting of the Central Board on **September 28, 2006**. Moreover, the Caroni Local Board had been directed to re-investigate the Senior Citizens' Grant claim of the Complainant. This Office is awaiting further information on the status of this matter.

APPENDICES





OFFICE OF THE OMBUDSMAN **VISION STATEMENT**

We are a strong, respected, independent institution dedicated to eliminating bureaucratic injustice and the development of an accountable, transparent, and participatory Public Service, for the benefit of all persons in Trinidad and Tobago.

OFFICE OF THE OMBUDSMAN **MISSION STATEMENT**

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



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.

APPENDIX III - Schedule of Monthly Community Visits



Office of the
ombudsman
OF TRINIDAD & TOBAGO



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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:

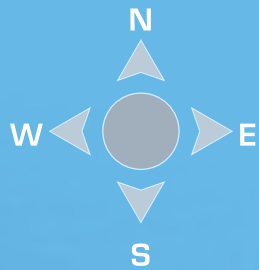
Area	Location	Date	Time
Roxborough (Tobago)	Office of the Justice of the Peace, at the Court House facility	Every three months on the second Tuesday of the month	9:30 a.m. to 12 noon
Point Fortin	Point Fortin Civic Centre	2 nd Wednesday each month	9:30 a.m. to 12 noon
Chaguanas	Chaguanas Borough Corporation Rates & Taxes Office	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	Last Thursday each month	9:30 a.m. to 12 noon
Couva	Upstairs V&S Supermarket	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

The San Fernando Regional Office (which also operates full time M-F is located at the corner of Hobson & Kelshall Streets. Contact info: 652-6786 (phone) & 652-0404 (fax). E-mail: sandoregion@ombudsman.gov.tt

APPENDIX IV





APPENDIX IV

CARIBBEAN SEA

TOBAGO

TRINIDAD

Gulf of Paria

North Atlantic Ocean

