

THE

OMBUDSMAN

24TH

ANNUAL REPORT

2001

January 1st, 2001 to December 31st, 2001

OFFICE OF THE OMBUDSMAN OF TRINIDAD AND TOBAGO

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18th October, 2002

The Honourable Speaker

Parliament,
Red House,
St. Vincent Street,
PORT OF SPAIN.

Dear **Mr. Speaker**,

I have the honour to present the TWENTY-FOURTH ANNUAL REPORT of the OMBUDSMAN for the period January 01, 2001 to December 31, 2001.

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

Yours faithfully,

GEORGE A. EDOO
OMBUDSMAN,
REPUBLIC OF TRINIDAD AND TOBAGO.

Vision Statement

COMMITTED
TO ENSURING
THE PROTECTION OF
THE INDIVIDUAL AGAINST
BUREAUCRATIC INJUSTICE

Mission Statement

1. To investigate complaints against Government departments, agencies and authorities.
2. To provide an impartial, informal and expeditious service to the public.
3. To educate the public as to their rights and duties in a free, democratic society vis-à-vis the responsibilities and accountability of public officers.
4. To promote an effective and efficient public service that is responsive to the needs of the citizenry.

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PART I

GENERAL

Overview

A total of 1182 Complaints were received during the year 2001, the year under review. This represents an increase of 192 or 19.5% over the previous year. The total number received during the previous year was 990.

This increase was due mainly to the easy accessibility of the Office now located in the central part of Port of Spain. It was previously located at St. Ann's.

The increase was also due to the fact that outreach services were extended to Siparia and Chaguanas which recorded visits by 109 persons and 63 persons respectively. The number of persons who accessed these outreach services during the year 2001 amounted to 752. The particulars are detailed in Table IV of the Statistical Overview at page 17.

Four (4) complaints were received during the year 2001 under the Freedom of Information Act, 1999 which came into force on 4th November, 1999. The Act is designed to give to members of the public a general right (with exceptions) of access to official documents of public authorities. The Ombudsman has a statutory role to play where a person is aggrieved by the refusal of the public authority to grant access to such documents. Details are at page 10.

Included in this Report is a Report on Hansen Disease patients who were relocated to the mainland from the leprosarium at Chacachacare in 1984. Over the years since their relocation, they have been making complaints to the Ombudsman, "*inter alia*" with respect to the provision of housing accommodation, standard agricultural leases and the payment of a severance benefit for their services at Chacachacare as daily-rated employees of Government. The Report is at page 5.

I have to report my attendance at the EU-Latin American/Caribbean Conference on the work and cooperation of Ombudsman and National Human Rights Institutions held in Copenhagen, Denmark 24 – 25 September, 2001 which resulted from the Rio Declaration signed at the European/Latin American-Caribbean Summit held in Rio de Janeiro in June, 1999. The Summit was attended by the Foreign Ministers of the Latin American and Caribbean countries. The details are at page 8.

Ms Martina Phillip, Investigator, attended the fifth annual study programme entitled "***When Citizens Complain: The Role of the Ombudsman in Improving Public Service***" held in London, United Kingdom, from 14th to 25th May, 2001. The report of her attendance and participation is included in this Report as an appendix at page 45.

For the year, 2001, the Ministries/Departments which generated a substantial number of complaints are as follows:

Ministry of Infrastructure Development and Local Government	156
Prison Services	82
Ministry of Community Empowerment, Sport and Consumer Affairs	65
Ministry of Health	65
Ministry of Housing and Settlements	60
Water & Sewerage Authority	52
Trinidad and Tobago Electricity Commission	51
Judiciary	51

Complaints against the Ministry of Infrastructure Development and Local Government related to allegations of infrastructural deficiencies of roads, drains and watercourses, the conditions of which were creating hardships in the daily lives of citizens. Also a substantial number of complaints were made by daily-rated employees of the Ministry who complained about conditions of employment and their seniority status.

There was a drop in complaints with respect to the Prison Services. Common complaints continued with respect to the provision of food, accommodation and medical attention. Complaints also were made with respect to delay in the hearing of pending appeals and the listing of matters for trial after committal to the Assizes.

Complaints against the Ministry of Community Empowerment, Sports and Consumer Affairs were mainly with respect to the provision of old age pensions and social assistance.

Complaints against the Ministry of Health increased over the previous year from 39 to 65 mainly as a result of the transfer of personnel from the Ministry to the Regional Health Authorities. Complaints related mainly to the question of salaries, allowances and conditions of service. As in previous years, complaints continued with respect to the delay in obtaining medical records.

Complaints against the Ministry of Housing continued with respect to the accessing of deeds from the National Housing Authority after satisfaction of mortgage payments and assistance in obtaining housing accommodation.

Complaints against the Water and Sewerage Authority related to duplicating of billing and failure to supply water. There was also an increase of complaints against the Authority for insisting on proof of ownership of land before it was prepared to provide a water supply.

Complaints against the Trinidad and Tobago Electricity Commission related as in previous years to retroactive billing, delays in the removal or replacement of rotted and defective electricity poles, failure to pay compensation for damage to electrical

appliances and other property and failure to obtain an electricity supply after premises had passed inspection by the Electrical Inspectorate department.

As in previous years, the main obstacle to the speedy resolution of complaints appears to be the delay in replying to correspondence and the failure to take action in respect of recommendations. There has been no significant improvement in systems and methods used in the Public Service in order to correct these faults. On the whole, however, I received the assistance and co-operation of public officers from the various departments and authorities in the resolution of complaints.

TRAINING

In keeping with the guidelines of the Government's Training Policy for the Public Service of Trinidad and Tobago my office identified training needs for members of staff with a view to equipping them with the necessary skills needed to effectively achieve the prescribed goals of the organisation in fulfilling its constitutional mandate.

A training plan was formulated and implemented to enhance job performance in addition to meeting individual growth potential and increasing motivation and job satisfaction of staff members.

Taking cognisance of the highly technological work environment, technical, administrative, clerical and secretarial staff were trained in Computer Literacy and Applications (Microsoft Word, Internet Explorer and Publisher). One clerical officer who has been performing the duties of an I.T. Officer/Systems Administrator was trained in Computing and Information Systems (Level I). Also a member of the manipulative staff participated in a Computer Technician Programme.

The ANSA McAl Institute conducted In-House training seminars in Stress Management and the handling of difficult and mentally challenged people. All members of staff participated in these seminars.

One Investigator participated in a workshop entitled, "The Role of the Ombudsman in Improving Public Services," which was held in the U.K. from 14th to 25th May, 2001.

Another Investigator was trained in Basic Psychology and Counselling which was offered by the National Institute of Higher Education Research Science and Technology.

The Estate Constables attended a Firearm Training Course at the Police Barracks and two (2) other members of the staff of the Manipulative grade were trained in hospitality services.

At present approval is being sought for a Training Plan designed to continue the training of personnel in order to maintain and develop the skills necessary to adapt to changes in the work environment and to provide for the delivery of quality services.

Hansen Disease Patients

In 1977 Cabinet took a decision to close the Leprosarium at Chacachacare. The hospital for Hansen Disease patients was originally established in the early 1900's in order to isolate diagnosed cases of the disease. However, due to advances in medicine and the acceptance of modern day trends in the treatment of the disease, isolation of patients was found to be no longer necessary.

At the time of the closure of the leprosarium in 1984, it housed a patient population of 108 persons. A Cabinet Committee comprising representatives from the Ministries of Health, Agriculture, Lands and Fisheries and Finance as well as the National Housing Authority was mandated to supervise the implementation of decisions made by Cabinet for the rehabilitation and treatment of the patients who were transferred to the mainland.

Cabinet made the following decisions:

- *Cured patients would be provided with housing through the National Housing Authority*
- *Financial aid would be provided to the former patients through the Trinidad and Tobago Hansen's Disease Relief Association until they were self sufficient. The annual subvention to the Association, a non-governmental charitable organization, was consequently increased.*
- *Patients requiring hospital care would be transferred to other institutions on the mainland where adequate medical and nursery care were available.*
- *The Ministry of Agriculture Lands and Fisheries would provide small holdings for those capable of and willing to engage in agriculture.*

Cabinet also took the decision to pay an allowance equivalent to the net amount of the current wages they formerly received for a period of three months or until alternative employment was obtained by fifteen (15) former patients who were employed at the Leprosarium and who were displaced when the Institution was closed.

Seventeen (17) years after the closure of the Institution a group representing fifty-one (51) surviving patients visited my office to complain that the promises which had been made to them by the State had not been fulfilled. They complained that several patients had not been provided with adequate housing and those who had obtained housing required deeds of ownership. They reiterated that they were taking the necessary steps to improve their living standards so as not to be a burden on the Government. Furthermore,

those persons who were given agricultural holdings required long term leases. Of particular concern to the patients was the failure of Government to recognize their tenure of service as employees at the Leprosarium and to provide payment of severance benefits in accordance with the terms approved for government daily rated personnel.

The majority of former patients have no means of livelihood and survive on public assistance from the Social Welfare Department as a result of their disabilities and their inability to obtain employment.

Given the nature of the group's complaints I held a meeting with the various agencies involved in order to determine the reasons for the delay in the implementation of the measures approved by Cabinet. At the meeting it was disclosed that:

- *There were six persons in occupation of state agricultural lands who were not provided with leases. The buildings on these lands were in disrepair and financial aid was needed to effect necessary repairs and in some cases to provide water and electricity services.*
- *NHA had distributed housing units to the patients either by way of rentals or by conveyances subject to mortgages. In order to make a gift of these premises to the occupants, it was necessary to obtain the approval of Cabinet.*
- *The Trinidad and Tobago Hansen Disease Relief Organization worked in conjunction with the Medical Social Worker of the Hansen's Disease Control Unit of the Ministry of Health to provide continuous support and aid to all patients. A monthly stipend of \$75.00 is paid to those patients who are unable to work and have no other source of income. The Association complained that the annual subvention from Government of \$175,000 was insufficient to meet the expenses to be incurred in the repair of houses.*

The patients' claim for the payment of severance benefits was never pursued by the Ministry of Health. At the time of the meeting the compilation of individual patient records of service which were necessary for the processing of such payments had not been prepared.

Following the meeting, letters were issued to the surviving patients requesting that they indicate on an individual basis what matters they wished to have addressed. Complaints were received from a total of sixteen (16) patients. Investigation of these complaints proceeded with the relevant departments or agencies. However while some issues have been speedily addressed the main issues of complaint remain unresolved. These are:

1. *The payment of severance benefit*
2. *Provision of housing accommodation for two patients*
3. *The execution of deeds and leases.*
4. *Provision of standard agricultural leases*
5. *Increases in the monthly allowances paid by the Hansen's Disease Relief Organization*
6. *Repairs to patients' houses*

These matters are presently being pursued with the departments or agencies concerned.

EU – Latin American/Caribbean Conference
On the Work and Cooperation of Ombudsman and
National Human Rights Institutions

Under the auspices of the Danish Government and the European Commission, an European – Latin American/Caribbean Conference on the work and co-operation of Ombudsman and National Human Rights Institutions was held in Copenhagen, Denmark on *24 – 25 September, 2001*. The Conference resulted from the Rio Declaration signed at the European/Latin American-Caribbean Summit held in Rio de Janeiro in June 1999 which was attended by the Foreign Ministers of the Latin American and Caribbean countries. Trinidad and Tobago was represented by the Honourable Mr. Mervyn Assam, the Foreign Minister.

I attended and participated as a discussant at one of the seminar's sessions. Mrs. Yvette Hall, Senior Investigator also attended and took part in the proceedings.

A declaration was signed regarding priorities for further cooperation between the regions. The declaration underscored the importance of expanding cooperation on human rights, democracy, participating development and poverty alleviation.

The Office of the Ombudsman is recognized as one of the key institutions in protecting human rights and ensuring accountability of government agencies. The conference was aimed at strengthening Ombudsman and Human Rights Institutions through an exchange of views on best practices and through the creation of a network for further cooperation between the institutions of the regions.

The conference was organized and hosted by the Danish Ministry of Foreign Affairs and the Danish Centre for Human Rights.

The opening address was delivered by Mrs. Anita Bay Bundegaard of the Danish Ministry of Foreign Affairs who expressed inter alia that all Ombudsman and National Human Rights Institutions had one essential common feature: they were monitoring bodies for actions taken by the state – and as such, indispensable watchdogs of democracy.

The seminar's sessions included the following topics:

- Characteristics of a well functioning institution
- The Ombudsman/National Human Rights Institutions and Parliament
- The relationship between the Ombudsman/National Human Rights Institution and the public, the media and the public administration
- Combatting discrimination
- The role of the Ombudsman/National Human Rights Institutions in protection of the economic, social and cultural rights of immigrants

- Pretrial Detention

Eighty-two delegates from more than forty (40) institutions in the EU, Latin America and the Caribbean attended the conference. A handbook of the proceedings was produced for regional distribution.

At the conclusion of the conference, the State Secretary, Mr. Caster Steur of the Danish Ministry of Foreign Affairs proposed two specific follow-up activities to the assembly:

- i. The establishment of a special website, which could further a more regular exchange of practices and experiences between the institutions
- ii. The establishment of a special fund for financing capacity building and further cooperation between the institutions.

FREEDOM OF INFORMATION ACT

The Freedom of Information Act, 1999 came into force on 4th November, 1999. The Act is designed to give to members of the public a general right (with exceptions) of access to official documents of public authorities. The Act provides for publication of certain documents and information.

Certain documents are exempted from access, e.g. Cabinet documents, defence and security documents, international relations documents, internal working documents and documents relating to trade secrets.

Under Section 38A of the Act, 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 complain in writing to the Ombudsman. 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 sees fit. The public authority is required to consider the recommendations of the Ombudsman and to such extent as it thinks fit, exercise its discretion in giving effect to the recommendations. Under Section 39 of the Act, a person aggrieved by the decision of a public authority may apply to the High Court for judicial review of the decision.

For the year 2001, four (4) complaints were received, all of which remained pending at year's end.

STAFFING ARRANGEMENTS

The staff structure remained stable from the inception of the office in 1977. Recently, however, the post of Communications Specialist was added to the office's establishment.

The post of Communications Specialist was created in accordance with Government's implementation of a policy, which addressed the need "to enhance the capacity and capability required to sustain the partnership between Government and the people."

Accordingly, Mr. Peter Baptiste was appointed on contract as Communications Specialist for a period of two (2) years. His functions include 'inter alia' the implementation of structured public education programme designed to enhance the public perception of the office and to build a proper understanding of the role and function of the Ombudsman.

In addition, our new permanent office in Tobago which is located at Tateco Building, #32 Wilson Road, Scarborough became operational with the appointment of Mrs. Claire Davidson-Williams to the newly created post of Investigator. The Central Administrative Services Tobago provided her with two (2) members of support staff namely one (1) Clerk II and one (1) Clerk Stenographer II.

During the period under review, the Legal Officer accepted an assignment in another organization.

My senior staff at the time of writing this report are as follows:

Executive Officer
Senior Investigator
Communications Specialist
4 Investigators
Administrative Officer II.

A current Organisational Chart is appended to this report.

I welcome the new members of staff and express our best wishes for their success. I also thank the members of staff for their continuing support to the organization.

PART II

AREAS OF CONCERN

AREAS OF CONCERN

COMPUTER LOAN FACILITY

In his 1998 Budget Statement captioned "Opportunity for All" the then Minister of Finance advised that in keeping with the Government's thrust to develop the country's human resource capabilities and to ensure that employees keep up with the information revolution, a computer loan facility equivalent to eighty percent (80%), up to a maximum of Fifteen Thousand Dollars, {\$15,000.00}, for the purchase of a computer, would be made available to all public servants.

Subsequently the Comptroller of Accounts vide circular memorandum FM: 3/2/148 dated *18th June, 1998* set out the terms and conditions for the computer loan facility as follows:

- (a) The loan to be limited to 80% of the cost of the computer, up to a maximum of \$15,000.*
- (b) Other peripheral equipment such as a printer and a surge protector may be included with the purchase of the computer.*
- (c) The loan facility to be interest-free and repayable within a period of three years.*
- (d) All officers accessing loans to execute a Mortgage Bill of Sale at the Office of the Chief State Solicitor to pay the required legal fees before the Agreement is signed.*
- (e) The equipment for which loans were issued to be insured. The insurance premium to be a one-off payment for a three (3) year period and to form part of the loan which was not to exceed \$15,000. The Treasury Division to be responsible for effecting the insurances under a group plan.*

After all the conditions set out in the circular were met, approval was given to the Chief State Solicitor to proceed with the Mortgage Bill of Sale. Upon execution by the public servant of the Agreement, *a cheque prepared in the name of the firm on a pro forma invoice* was issued to the officer.

Many public servants sought to avail themselves of the opportunity to purchase a computer for their personal use.

A number of public servants complained that having accessed the computer loan facility and having delivered the cheques provided by the Treasury Division of the Ministry of Finance to the firms with which they had chosen to do business, they had never received their computers. Others, who received their computers reported that the computers were

either of a lower range than that which they had ordered or were promised, or those supplied to them were in a defective condition.

Accordingly the affected public servants reported their dilemma to the Consumer Affairs Division of the Ministry of Community Empowerment, Sport and Consumer Affairs and to the Computer Loans Section of the Treasury Division of the Ministry of Finance. They were disappointed with the responses they received.

The Consumer Affairs Division first indicated that the matter would be referred to the Police Fraud Squad. Then the Division, based solely on their discussions with the owner or an employee of the offending firms, accused public servants of taking the loans, not to purchase computers as they had indicated, but rather as a means of accessing the funds of the loan facility. Affected public servants were never given the opportunity to refute these claims. In any event, the firms making the claims were directed to return the cheques to the Treasury Division. This they never did. Ultimately the public servants were told that since the offending firms had either gone into liquidation or in some cases, simply disappeared, there was nothing that could be done to assist them in the circumstances.

The Treasury Division, by their own admission had become aware that some public servants were experiencing delays and other irregularities in obtaining their computers. The Division nevertheless continued to issue cheques to the firms after receiving legal advice that public servants had the right to choose their suppliers and refusal by the Treasury Division to treat with these suppliers would be to invite claims of bias by both the public servants and/or the suppliers.

The Treasury Division reasoned that the Division had not contracted with the suppliers, but with the public servants; that by signing the promissory note, these officers had made an unconditional promise to repay the loan on demand or at a fixed or determinable future time and that it was on this basis alone that the cheques were issued to them in the first instance. It was concluded that in these circumstances the public servants were therefore liable and would have to honour their obligations to repay the loan.

The public servants were advised that if they so chose, they could institute civil proceedings against the defaulting suppliers. Meanwhile deductions are being made from their salaries in respect of loans the proceeds of which they had not received and which were passed on to a third party.

It is cause for concern that public servants have found themselves in this predicament through little fault of their own. Having regard to this state of affairs, it is only reasonable that Government, should, in the public interest, embark upon an enquiry and attempt to recover moneys advanced to the defaulting suppliers.

Public officers who were involved in these transactions and who are continuing to suffer hardship and injustice by having monthly amounts deducted from their salaries are

entitled to some form of relief. They should not be left to their own resources in trying to recover money advanced directly to the defaulting suppliers.

AREA OF CONCERN

Delay in the Hearing of Appeals

A matter of ongoing concern which affects persons convicted before a Magistrate, is the delay experienced by them in having their appeals heard before the Court of Appeal.

The same concern is relevant in the case of persons who have either pleaded guilty or been found guilty before a magistrate and remanded to the Assizes for sentence.

The chief cause of the delay appears to be the late submission of the records to the Court of Appeal by Clerks of the Peace.

Various reasons are given for the delay viz:

1. Pressure of work by Court Clerks resulting in delay in having the notes of evidence prepared.
2. Transfer of Court Clerks with the result that their replacements find the handwritten notes indecipherable.
3. Delay in submitting Records because Court Clerks go on leave and the preparation of the records await their return.
4. Delay in obtaining the magistrate's reasons for inclusion in the Record.

Delay in most of these cases range from two to five years. Where the complainant is on bail, he is not seriously affected. However, where the complainant is refused bail or is unable to obtain bail, he is remanded to the Prison to await the hearing of his appeal. He is termed a First Division Prisoner and is kept in a part of the Prison specially provided for First Division prisoners. These include prisoners who are in default of payment of a civil debt, prisoners awaiting deportation or extradition and prisoners' awaiting trial at the Assizes. Certain privileges are accorded to First Division prisoners 'inter alia' no compulsion in having their hair cut or having to shave, permission to wear their own clothing and to order food, toilet requisites, books, etc. at their own expense.

Except for these privileges, these prisoners as a result of their incarceration undergo the same ordeal as prisoners who are serving their sentences. Many of these prisoners would have served their "sentences" by the time their matters are heard before the Court of Appeal.

In fact, in many of these cases, where the prisoner loses his appeal, his sentence begins from the date his appeal is heard. The Appeal Court has, in a few instances, taken into consideration, the time spent by a prisoner in awaiting the hearing of his appeal.

It is evident that if this state of affairs continues, prisoners in custody awaiting the hearing of their appeals will continue to complain about the injustice and unfair treatment accorded to them.

AREA OF CONCERN **Water and Sewerage Authority**

The Water and Sewerage Authority has, for sometime now, adopted a policy of requiring proof of ownership or the permission of the owner of land to which they are requested to provide a supply of water.

Such a requirement has resulted in the deprivation of a water supply to a significant proportion of the population due to the fact that persons who *'inter alia'* are tenants or occupiers are unable to provide such evidence or are unable to obtain the permission of the owners for various reasons. These persons also include land tenants who have been in occupation for a considerable period of time and persons who, through adverse possession, have acquired possessory titles.

A recent complaint concerns a tenant of a parcel of land in Tobago who had been in occupation of the land for the past twenty-one years. The owner of the land had died sometime previous to the complainant's request for a water supply. No one had applied for a representative grant to the owner's estate, so that for some years back the complainant had become, in effect, the virtual owner of the land. However, a supply was refused as a result of the policy which the Authority had adopted.

There is no stipulation in the Water and Sewerage Act or any other legislation requiring proof of ownership or owner's consent as a condition precedent to the supply of water by the Authority. On the contrary the intent of the legislation (The Water and Sewerage Act Chap:54:40) contemplates the supply of water to the population at large. This is reflected in Section 17(1) of the Act which provides as follows:

“17(1) The undertakers, in lieu of charging a water rate, may agree with any person requiring a supply of water for domestic purposes to furnish the supply, whether by meter or otherwise, on such terms and conditions as may be agreed.

(2) charges payable under this paragraph (including charges for any meter supply by the undertakers) shall be recoverable in the manner in which water rates are recoverable.”

In most cases the water is connected by the Authority from the mains to a pipe or other facility provided by the applicant for a water supply obviating the necessity of the Authority having to go on the land and lay down any mains or other facility for the supply.

The Rate and Charges Recovery Act Chap. 74:03 is often used as an excuse for denying an applicant a water supply and as requiring the consent of the owner of the land. The Act, however, is only designed to protect the revenue. It provides for the recovery of rates and charges by public authorities in that the land is charged with such rates and charges. The Authority therefore, is protected when it comes to the recovery of water rates and charges.

The plight of persons affected by the existing policy of the Authority has been brought to the Authority's attention with a request that such policy be alleviated to some extent in the interest of the public and that efforts be made to comply with Section 17 of the Act referred to above.

PART III

- 1. STATISTICAL OVERVIEW**
- 2. SELECTED CASE SUMMARIES**
- 3. SUMMARY OF OTHER COMPLAINTS
RECEIVED IN 2002**

Statistical Overview

In the year 2001 I received 1182 complaints which represented an increase of 19.5% from the number received in 2000. 191 of the new complaints made to my office were in relation to private matters which fell outside my jurisdiction. As customary, the complaints were referred to the competent authorities or the complainants advised on the proper course of action to be followed in having their complaints addressed.

I commenced investigations on 991 complaints which fell within my jurisdiction. This represented 84% of the new complaints received. At the close of the year investigation was concluded on 274 or 28% of these complaints. A total of 717 or 72% remained under investigation.

Table 1 and Figure 1 show the number of new complaints which were received during the period under review and the manner of their disposal.

TABLE 1
STATISTICS ON NEW COMPLAINTS RECEIVED DURING THE PERIOD
JANUARY – DECEMBER 2001

	NUMBERS	PERCENTAGE
Total number of complaints received	1182	100
Total number against Private Institutions	191	16
Total number proceeded with	991	84
Total number concluded	274	28
Sustained/Rectified	85	9
Not Sustained	40	4
Withdrawn/Discontinued	11	1
Advised/Referred	138	14
Total number under investigation	717	72

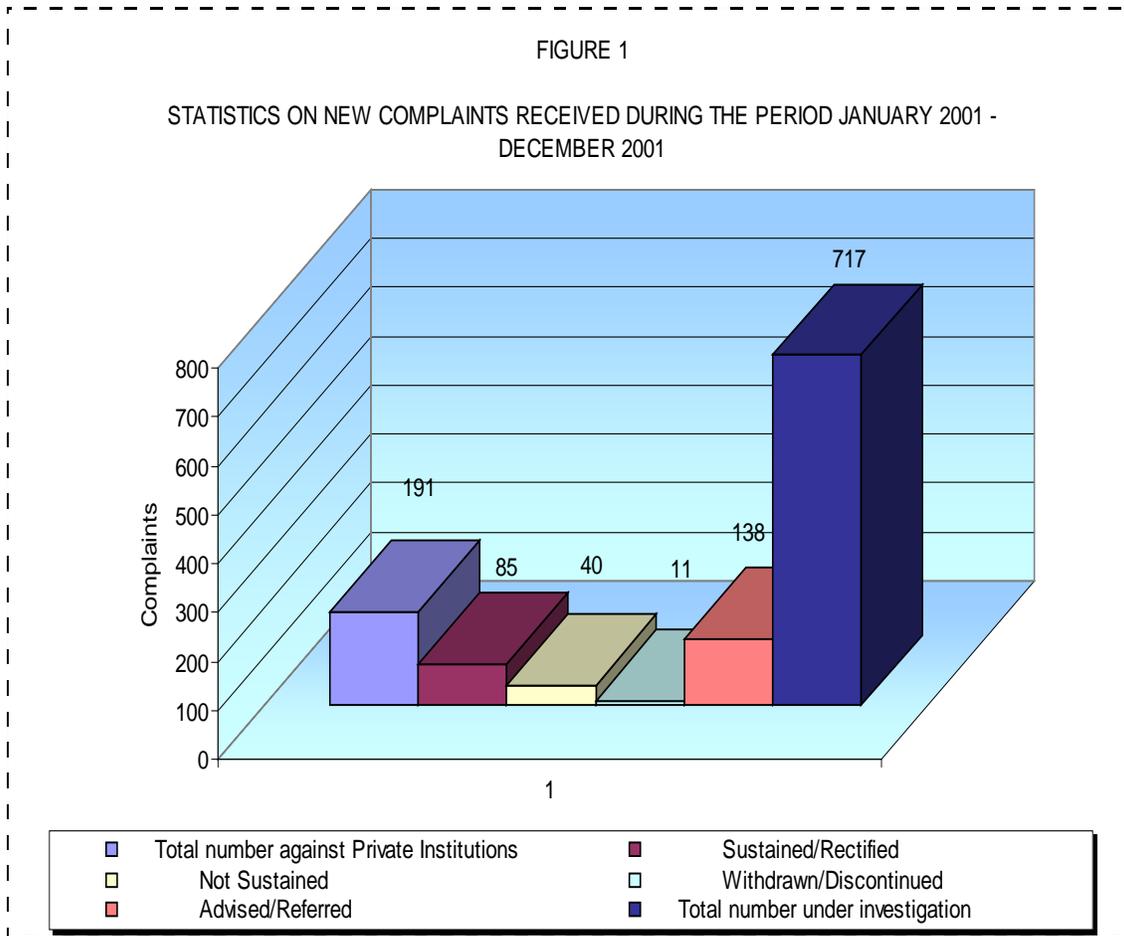


Table II shows in detail the number of complaints received by this Office with respect to Ministries and Agencies and the manner of their disposal during the same period.

TABLE 11
DISTRIBUTION OF NEW COMPLAINTS IN RESPECT OF MINISTRIES/DEPARTMENT

Ministry/Authority/Agency	Total No. of Complaints	Sustained/ Rectified	Not Sustained	Withdrawn/ Discontinued	Advised/ Referred	Under Investigation
Agricultural Development Bank	1	0	0	0	0	1
Attorney General and Legal Affairs	24	1	0	0	9	14
Caroni (1975) Limited	3	0	0	0	1	2
Communicator and Information Technology	2	1	1	0	0	0
TSTT	13	3	1	1	4	4
TT Post	3	0	0	0	0	3
Community Empowerment, Sport and Consumer Affairs	65	8	4	0	10	43
Education	18	4	0	1	2	11
Elections and Boundaries Commission	6	1	0	0	1	4
Energy and Energy Industries	2	0	0	0	0	2
T&TEC	51	11	3	0	10	27
Enterprise Development and Foreign Affairs	25	1	1	1	1	21
Environment	1	0	0	0	0	1
Environmental Management Authority	5	0	0	0	0	5
Finance	39	4	4	0	7	24
Food Production and Marine Resources	22	0	3	0	1	18
Health	65	3	2	1	3	56
Housing and Settlements	60	0	2	0	6	52
Human Development, Youth and Culture	3	0	0	0	0	3
Infrastructure Development and Local Government	156	10	9	1	12	124
WASA	52	5	0	1	5	41
Integrated Planning and Development	10	0	0	0	0	10
Judiciary	51	2	0	0	16	33
Labour, Manpower Development and Industrial Relations	9	1	0	0	1	7
Magistracy	16	2	0	0	3	11
N.I.P.D.E.C	1	0	0	0	0	1
National Insurance Board	43	5	1	0	7	30
National Lotteries Control Board	1	0	0	0	0	1
National Security	11	1	1	0	1	8
Defence Force	1	0	0	0	0	1
Fire Services	5	2	0	0	1	2
Immigration	4	1	0	0	1	2
Police	44	2	1	2	15	24
Prisons	82	8	1	1	16	56
Petrolrin	3	1	0	0	0	2
Port Authority	14	1	2	0	1	10
Public Transport Service Corporation	5	0	1	0	0	4
Service Commissions Department	18	0	2	1	3	12
Teaching Service Commission	1	0	0	0	0	1
Tobago House of Assembly	44	5	1	0	1	37
Transport	8	2	0	1	0	5
Freedom of Information Act	4	0	0	0	0	4
TOTAL	991	85	40	11	138	717
Private	191	0	0	0	0	0
GRAND TOTAL	1182	85	40	11	138	717

The ministries/agencies which recorded the highest number of complaints were: the Ministry of Infrastructure, Development and Local Government 156; Prison Services 82; the Ministry of Community Empowerment Sport and Consumer Affairs 65; Ministry of Health 65; Ministry of Housing and Settlements 60; the Trinidad and Tobago Electricity Commission (T&TEC) 51; Water and Sewerage Authority (W.A.S.A) 52; and the Judiciary 51.

The bulk of complaint issues raised with my office are concerned mainly with the decisions or actions of agencies. Inordinate delays in terms of service and the nature of advice given are other major sources of complaint.

Table III and Figure 2 show the distribution of complaints lodged against the Regional Corporations over the years 1997 – 2001. A total of 121 complaints were received in the year 2001 which represents a 100% increase in the number for 2000.

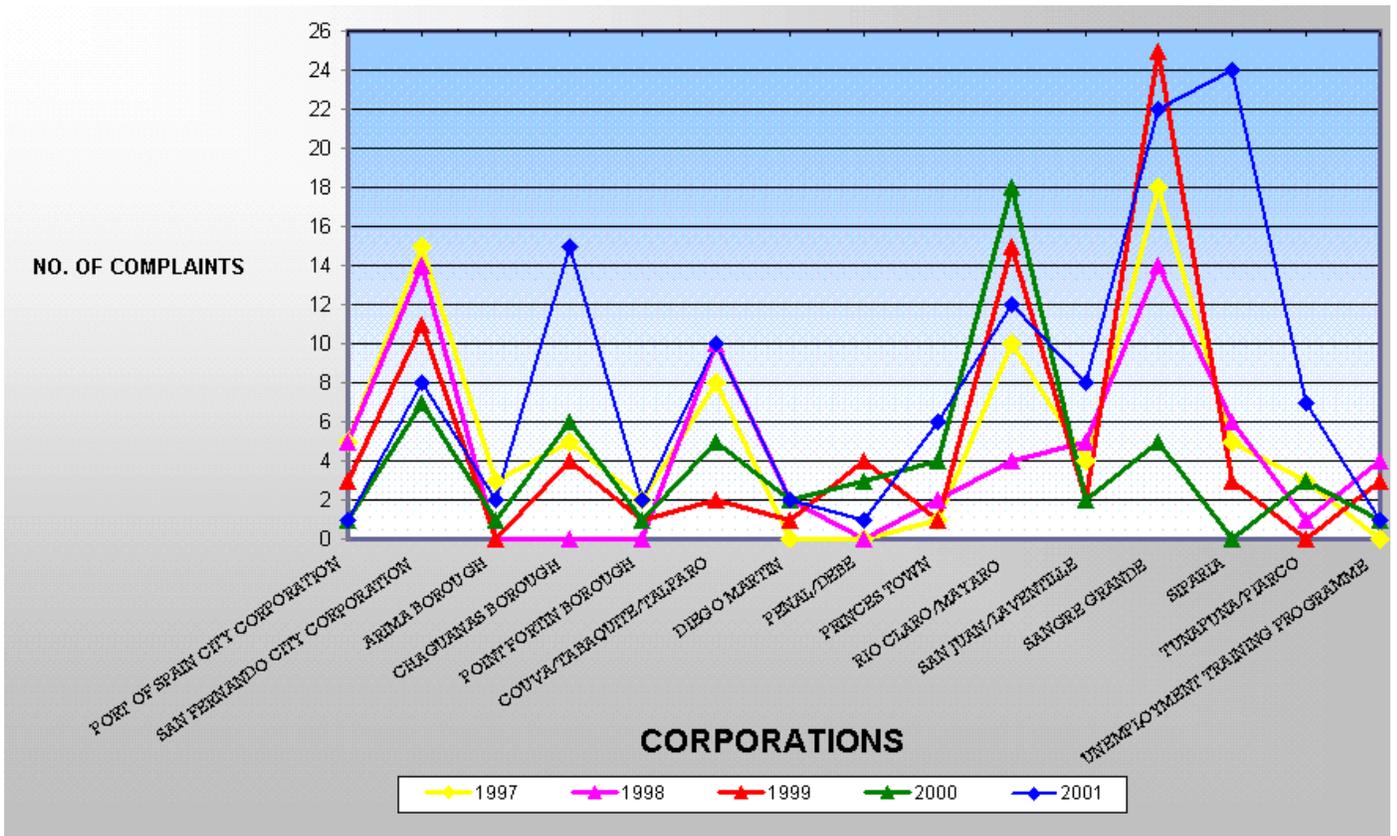
The Siparia Regional Corporation showed the highest number of 24 complaints.

TABLE 111
LOCAL GOVERNMENT –
CITY, BOROUGH AND REGIONAL CORPORATION

CORPORATION	TOTAL NUMBER OF COMPLAINT RECEIVED				
	1997	1998	1999	2000	2001
PORT OF SPAIN CITY CORPORATION	5	5	3	1	1
SAN FERNANDO CITY CORPORATION	15	14	11	7	8
ARIMA BOROUGH	3	0	0	1	2
CHAGUANAS BOROUGH	5	0	4	6	15
POINT FORTIN BOROUGH	2	0	1	1	2
COUVA/TABAQUITE/TALPARO	8	10	2	5	10
DIEGO MARTIN	0	2	1	2	2
PENAL/DEBE	0	0	4	3	1
PRINCES TOWN	1	2	1	4	6
RIO CLARO/MAYARO	10	4	15	18	12
SAN JUAN/LAVENTILLE	4	5	2	2	8
SANGRE GRANDE	18	14	25	5	22
SIPARIA	5	6	3	0	24
TUNAPUNA/PIARCO	3	1	0	3	7
UNEMPLOYMENT TRAINING PROGRAMME	0	4	3	1	1
TOTAL	79	67	75	59	121

Figure 11

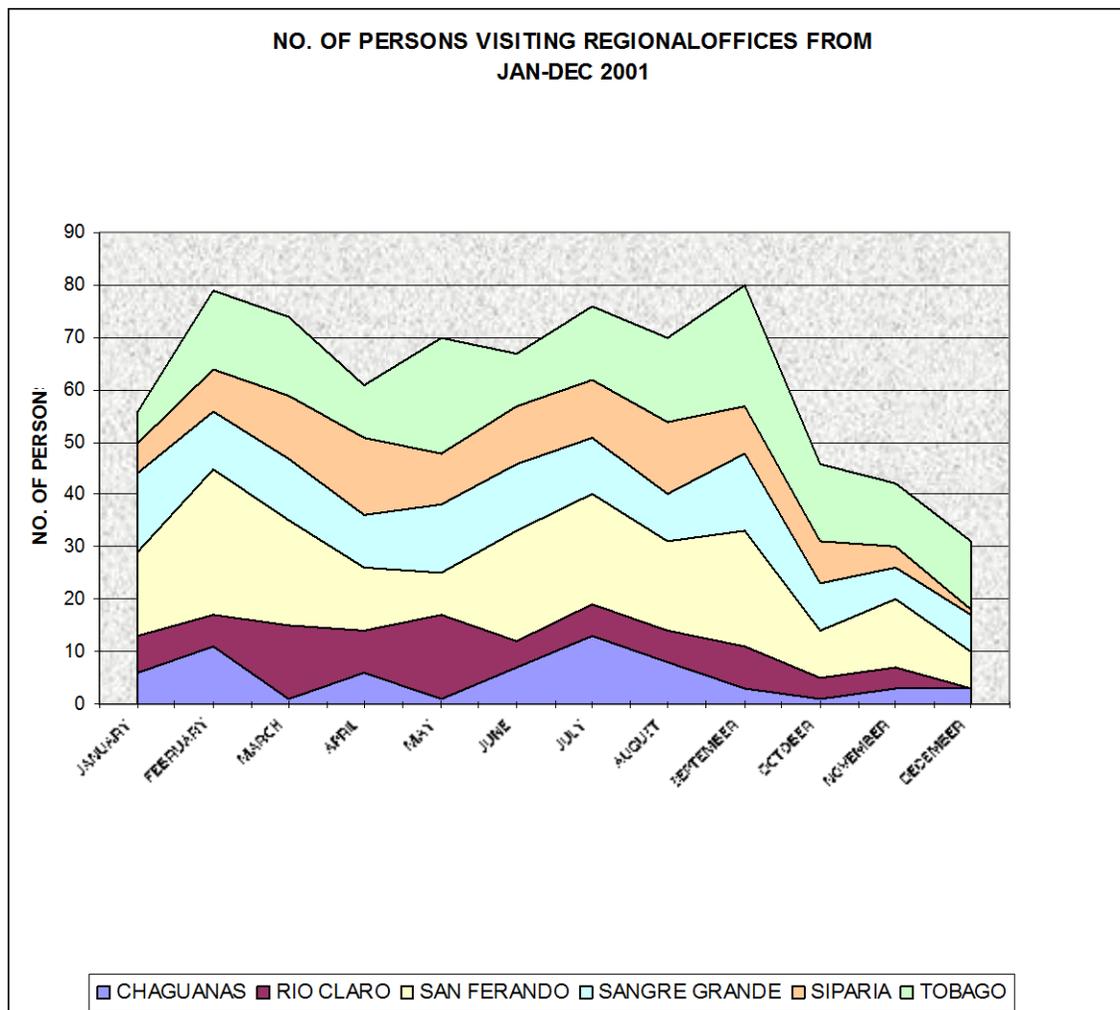
COMPLAINTS AGAINST LOCAL GOVERNMENT BODIES
FROM 1997-2001



The practice of providing outreach services to members of the public, especially to those persons who live in the rural communities, was continued in the year 2001. Monthly visits were made by members of staff to the communities of San Fernando, Rio Claro, Chaguanas, Siparia, Sangre Grande and Tobago. These visits ensure that the Office remains accessible and convenient. Table IV shows the number of persons who accessed the services at the regional offices for the period under review.

TABLE IV
NUMBER OF PERSONS WHO VISITED THE REGIONAL OFFICES IN THE YEAR 2001

MONTHS	CHAGUANAS	RIO CLARO	SAN FERNANDO	SANGRE GRANDE	SIPARIA	TOBAGO	TOTAL
JANUARY	6	7	16	15	6	6	56
FEBRUARY	11	6	28	11	8	15	79
MARCH	1	14	20	12	12	15	74
APRIL	6	8	12	10	15	10	61
MAY	1	16	8	13	10	22	70
JUNE	7	5	21	13	11	10	67
JULY	13	6	21	11	11	14	76
AUGUST	8	6	17	9	14	16	70
SEPTEMBER	3	8	22	15	9	23	80
OCTOBER	1	4	9	9	8	15	46
NOVEMBER	3	4	13	6	4	12	42
DECEMBER	3	0	7	7	1	13	31
TOTAL	63	84	194	131	109	171	752



In addition to the new complaints received in the year 2001, investigations were continued on 1470 complaints which were brought forward from the preceding years. Of these a total of 395 matters were concluded during the year. Table V shows the manner of their disposal.

TABLE V

STATISTICS ON COMPLAINTS BROUGHT FORWARD FROM PRECEDING YEARS

		TOTAL
Total number of complaints brought forward from previous years		1470
Total number of complaints concluded		395
Sustained /Rectified	169	
Not Sustained	22	
Withdrawn/Discontinued	38	
Advised/Referred	166	
Number of complaints still under investigation		1075

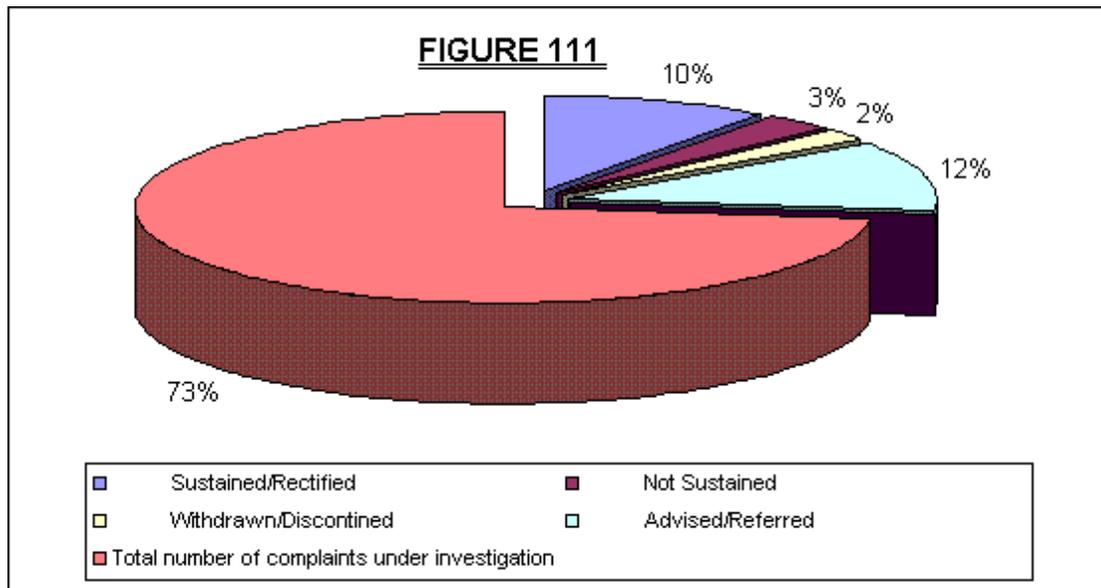
Investigation was undertaken into 2652 complaints during the year 2001. This figure represents the total of 1182 new complaints in addition to those brought forward from the preceding year. 669 complaints were closed during the year compared with 737 in 2000 and 639 in 1999. Whilst I aimed for a reduction in the number of complaints which were carried forward into the following year 1792 complaints remained unresolved at the end of 2001. This represents an increase of 22% from the previous year and can be attributed to the increased workload.

The delay in the closure of complaints is further exacerbated by the quality and timeliness of responses from government ministries and agencies. As I had stated in my annual report for 1997 the number of complaints which remained unresolved at the end of the year were due mainly to the fact of delays on the part of government agencies and departments in replying to requests for information and in making decisions on relatively simple issues. As a result complaints which should take only a short time to be resolved may drag on for years. This situation has not improved through the years and continues to be a matter of concern since the effectiveness of the Office is impaired.

Table V1

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

	NUMBERS	PERCENTAGE
Total number of complaints brought forward from previous years	1470	
Total number of complaints received in 2001	1182	
TOTAL	2652	
Total number of complaints without jurisdiction	191	7
Total number of complaints proceeded with	2461	93
Total number of complaints concluded	669	27
Sustained/Rectified	254	10
Not Sustained	62	3
Withdrawn/Discontinued	49	2
Advised/Referred	304	12
Total number of complaints under investigation	1792	73



OMB: 0163/1996

MINISTRY OF EDUCATION

A teacher complained in January, 1996 that he was experiencing difficulty in having a void cheque dated **29th November, 1993** in the sum of ***One Thousand Nine Hundred and Twenty-three Dollars and Seventy Cents, {\$1,933.70}*** revalidated. I requested a report from the Ministry of Education and received the following reply dated **13th November, 1997**:-

“Due to the change in the computerization from the 8” floppy diskettes on which the original data was captured to the 3 ¼” floppy diskettes, the National Information System Centre (NISC), the agency responsible for producing and printing documents in respect of the Reconciliation Exercise has to upgrade its system to accommodate this change.”

In May, 1998 I invited the Permanent Secretary, Ministry of Education to a meeting in order to have the complaint resolved. The Accounting Executive Officer II, an Administrative Officer II and an Accounting Assistant attended the meeting. The Accounting Executive Officer II endorsed the contents of the letter previously sent and gave me the assurance that the reconciliation exercise would be completed by the end of June, 1998.

Eight (8) months after the meeting I received a letter from the Permanent Secretary, Ministry of Education stating that recent problems encountered by the National Information Systems Centre had delayed the completion of the reconciliation exercise. It was also stated that efforts were continuing for an early settlement so that a replacement cheque could be prepared in favour of the complainant.

Successive letters in November, 2000 from the Ministry of Education stated that a major portion of the problem was resolved and that it was expected that the exercise should be completed shortly.

However, at the time of writing this report the reconciliation exercise for the paid and unpaid cheques for the accounting year 1993 had not been completed.

The matter is being pursued.

Note: More than eight (8) years have elapsed since the cheque in this matter was issued. It is ironic that a system which was designed to speed up the work of the Ministry should have this effect.

OMB:0988/1997

**MINISTRY OF HEALTH
(ST ANN'S HOSPITAL)**

The Complainant, the mother of a patient warded at the St. Ann's Hospital, a mental health institution, complained that her son was fit for release from the Institution and she did not know the reason why he was not released.

An investigation of the matter revealed that her son had been at the Institution as a patient at the President's pleasure having been found guilty but insane. The consultant psychiatrist in charge of the Forensic Unit reported on the 28th November, 1997 that the patient was in good health both physically and mentally and that he was due to be examined by the Hospital Tribunal the following month when he was due to be released.

In a subsequent letter by the consultant psychiatrist it was stated that the patient was recommended for release by the Psychiatric Hospital Tribunal and that the recommendation was forwarded to the Ministry of National Security.

In later correspondence from the Medical Chief of Staff at the St Ann's Hospital it was disclosed that the patient's matter was brought before a psychiatric tribunal chaired by the Principal Medical Officer of the Ministry of Health and comprising representatives of the Judiciary, the Medical Chief of Staff and other medical and psychiatric practitioners and that his case had not found favour with the Tribunal.

The matter was due to come up again before the Tribunal. The Complainant, the mother of the patient, was informed.

OMB:0442/1998

**MINISTRY OF INFRASTRUCTURE DEVELOPMENT
AND LOCAL GOVERNMENT**

The Complainant was the widow of a deceased employee of the Ministry of Labour and Co-operatives who died on the 30th November, 1977. In processing his terminal benefits, it was discovered that he was overpaid salary in the sum of \$24,270.35, incurred between the years 1979 to 1997. This sum was withheld from his terminal benefits by the Comptroller of Accounts. The deceased was first employed as a daily paid foreman of the Ministry of Works and Transport on 28th August, 1980. The Public Service Commission subsequently appointed the deceased to the post of Electrical Foreman I in the Ministry of Government Construction and Maintenance. His last place of employment was in the Ministry of Labour and Co-operatives.

The Ministry admitted that the overpayment occurred as a result of the misinterpretation of two ambiguous circulars No. 6 of 1973 and No. 44 of 1979, issued by the Chief Personnel Officer. In such circumstances, it was previously admitted by the Chief Personnel Officer that the salary fixed by the Public Service Commission where a public officer was promoted was properly computed.

At a meeting held at my office at which all relevant parties were present, it was agreed that the Ministry involved with the payment of the overpayment should seek the approval of Cabinet to have the overpayment written off.

Representations were made to Cabinet and the overpayment was written off. I have been informed by the Complainant that she had received from the Comptroller of Accounts the sum which was withheld.

OMB:0016/2001

**MINISTRY OF FINANCE
Comptroller of Accounts**

The Complainant, a retired Community Development Supervisor felt aggrieved when the sum of three thousand seven hundred and sixty-nine dollars (\$3,769.00) was deducted from his retirement benefits by the Comptroller of Accounts as a result of an alleged over-payment during the course of his employment in the Public Service

Following his retirement on 30th March, 2000 his pension and leave record was examined by the Comptroller of Accounts in order to determine the quantum of retirement benefits to which he was entitled. The review of the records disclosed that he had been paid an acting allowance over the period 7th April, 1982 to 31st December, 1987 in contravention of instructions issued vide paragraphs I(2)(iii) and II(2) of Personnel Department Circular No. 8 of 1972 which reads as follows:

- I(2)(iii) “where at the time of promotion an officer’s salary in the low post coincides with a point in the higher post, he will continue to receive that salary in the higher post retaining his old incremental date;”*
- II(2) “an officer who is appointed to act in a post which is higher than his substantive post shall be treated as though he were promoted to the higher post during the period of his acting appointment and the same principles for promotion as outlined at I above shall apply,”*

The Complainant had held the substantive position of Community Development Officer I in Range 29 at the material time and was appointed to act Community Development Officer II in Range 47. His substantive salary of three thousand one hundred and fifty

dollars (\$3,150.00) coincided with the minimum salary of the post of Community Development Officer II and, an acting allowance of one hundred and twenty-four dollars (\$124.00) per month had been paid to him in accordance with the provisions of sections 44(b) and 45(i) of the Civil Service Regulations Chapter 23:01 of the Revised Laws of Trinidad and Tobago 1980 which prescribe:

44(b) *“where the actual salary which the officer was receiving in the lower post immediately prior to the promotion was the same as the minimum salary of the higher post, then the officer’s salary on promotion should be adjusted to the next incremental point in the salary range of the higher post;*

45(i) *“where an officer has been acting in a higher post and the officer is promoted or appointed to that post or to a post in the same salary range as the post in which he has been acting, he should convert to the higher salary scale in the same manner as prescribed in Regulation 44.”*

The Complainant held the firm view that he was correctly paid and contended that a Personnel Department Circular could not override the provisions of the law.

The complaint was referred by my Office to the Chief Personnel Officer.

The Chief Personnel Officer while conceding that *“in the application of strict law, a circular could not override the provisions of the law”* submitted that the circular represented the outcome of terms and conditions negotiated with the representative bargaining unit for public officers. It was further contended that since such an agreement was, by virtue of the Civil Service Act, section 19(i) *“binding upon the government and the civil servants to whom the agreement relates”* the agreement governed the matter.

At a meeting held at my office, at which representatives of the Chief Personnel Officer and the Comptroller of Accounts were present the situation was defused when the representative of the Comptroller of Accounts gave the assurance that the alleged overpayments would be written off and the Complainant would be paid his full benefits.

Note: It is a matter for concern that Circulars are being issued to explain provisions of the law which should only be open to legal interpretation.

In this case the provisions of the law were plain and unambiguous and there was no need for the issue of the Circular which gave an interpretation contrary to what the law intended.

OMB:0327/2000

**MINISTRY OF FINANCE
(COMPTROLLER OF ACCOUNTS)**

The Complainant entered the Public Service on 7th January, 1952. She was transferred to the Federal Service on 1st May, 1958 and was retired from this service on the grounds of abolition of office with effect from 6th January, 1963.

Upon her retirement from the Federal Service she received compensation for loss of service, a lump sum gratuity of nine hundred and three dollars and seventy-five cents (\$903.75) and a reduced monthly pension of eighteen dollars and seven cents (\$18.07) from the Trinidad and Tobago Government for the Trinidad portion of her Federal Service.

She subsequently re-entered the Public Service on 15th June, 1964 and continued to receive payment of the reduced pension. When she retired at the age of sixty (60) years from the public service on 13th April, 1986 she was paid a lump sum gratuity based on her period of service from 15th June, 1964 to 12th April, 1986 and a reduced monthly pension of one thousand, two hundred and seven dollars and thirty-eight cents (\$1,207.38).

Following an audit examination of the records of the Pensions Branch in July, 1986 the Comptroller of Accounts ceased payment of the Complainant's monthly pension for the Trinidad portion of her Federal Service. It was determined that the payment of pension to the Complainant should have ceased when she re-entered the Public Service on 15th June, 1964 and as a consequence an overpayment in the sum of fifty-one thousand, seven hundred and seventy-three dollars and sixty-two cents (\$51,773.62) resulted.

This conclusion was based on the department's interpretation of Section 20 of the Pensions Act Chapter 23:52 which reads as follows:-

“If an officer to whom a pension has been granted under this Act is appointed to another office, in the public service, the payment of his pension may, if the president thinks fit, be suspended during the period of his re-employment.”

In January, 1994 the advice of the Solicitor General was sought as to the recoverability of the amount allegedly overpaid.

The Solicitor General in response stated that payment of the first reduced pension should have ceased in 1964 and that the resulting overpayment constituted a debt which was recoverable in full in accordance with Regulation 83 of the Financial Regulations.

The Complainant complained to me that the deduction of one hundred dollars (\$100.00) per month from her pension towards recovery of the overpayment was causing her tremendous hardship.

I subsequently wrote to the Comptroller of Accounts to point out that Section 20 of the Pensions Act could not be interpreted as a prohibition on the payment of pension to a re-employed person.

The provisions of the section were clearly intended to be discretionary with this discretion being exercised by the President. Since the President had not determined that the payment of pension to the complainant should be suspended and since the discretion could not be exercised retroactively there was no question of an overpayment arising.

My opinion was referred to the Solicitor General who subsequently issued the following directions to resolve the matter:

- *The monthly deductions of \$100.00 from Complainant's pension should be repaid;*
- *The first reduced pension which ceased in 1986 should be resumed;*
- *Payment of arrears of pension from 1986 should be calculated and paid.*

The Comptroller of Accounts is now in the process of computing the amounts payable to the Complainant in respect of the three (3) items listed above with the view to subsequent payment to her.

OMB:0765/1993

**MINISTRY OF HOUSING AND SETTLEMENTS
(Director of Surveys)**

The complainants, a father and son requested my intervention when they were faced with inordinate delay by the Director of Surveys in effecting an "exchange" of a portion of land which they owned at Baileys Gardens, Pepper Village, Fyzabad for a portion of State land which formed part of an abandoned road reserve.

At the time of the filing of this complaint in 1993 the Complainants had already been waiting twenty (20) years for the Lands and Surveys Department to provide them with the relevant State grant.

The Director, Lands and Surveys to whom the matter was referred informed me on 21st October, 1994 that the Note for Cabinet had been prepared and sent to the Permanent Secretary, Ministry of Agriculture, Land and Marine Resources for submission to Cabinet for the approval of the exchange of land.

It should be noted that at that time the Lands and Surveys Department fell under the jurisdiction of the Ministry of Agriculture, Land and Marine Resources but has since been transferred to the Ministry of Housing and Settlements.

When almost eighteen (18) months had elapsed and the matter still had not been resolved, I convened a meeting at my office on 21st September, 1995. The meeting was attended by the Acting Director of Surveys and the Administrative officer IV, Ministry of Agriculture, Land and Marine Resources. The Acting Director of Surveys explained that the delay in having the “exchange” of land finalized was caused by the failure of one or more of the Departments involved in the transaction to properly state the matter for the consideration of Cabinet.

On two (2) previous occasions Cabinet had been asked to agree to the grant to the complainants of a portion of State land comprising of 250.7 square metres of road reserve that had been declared abandoned. Cabinet had agreed to this request by Minutes 1856 dated August 22, 1985 and 2407 dated December 14, 1989. The Ministry had on both occasions inadvertently left out of the Notes a request for Cabinet to accept the parcel of land offered by the complainants comprising 775.9 square metres, which parcel of land was paved by the complainants and which now forms the existing roadway.

As a result no “exchange” could be effected. The Acting Director of Surveys then gave the assurance that the corrected Note would be forwarded for the approval of the Cabinet. This was done and Cabinet by Minute No. 536 dated March 7, 1996 agreed *inter alia* that:

- (a) *the State accept the offer made of a parcel of land comprising 775.9 square metres which parcel of land was paved and is an existing roadway (Cabinet Minute No. 1856 of August 22, 1985 refers);*
- (b) *the said parcel of land coloured pink on the plan attached to the Note, be vested in the State;*
- (c) *the legal cost of the transaction be borne by the State.*

The Acting Director of Surveys was informed of Cabinet’s decision and requested to take the necessary steps to have the legal documentation prepared. I pursued the matter with the Acting Director of Surveys from **1996** onward until he eventually informed me on **10th January, 2000** that State grant forms, signed by the President and having the seal of the Republic affixed thereon, were forwarded to the Registrar General for registration of the State grant in favour of the complainants. According to the Acting Director of Surveys his records at the time of his writing revealed the matter was still with the Registrar General.

I referred the comments of the Acting Director of Surveys to the Registrar General vide memorandum dated **24th February, 2000**. The Registrar General eventually replied on

10th January, 2002 advising me that the State grant had indeed been registered on *15th October, 1998* at Volume 4042 Folio 61.

The matter has therefore been resolved and the file closed.

OMB:0423/2001

OMB:0424/2001

**MINISTRY OF INFRASTRUCTURE DEVELOPMENT
AND LOCAL GOVERNMENT**

The Complainant, a resident of the County of Victoria complained that the seepage of water from the roadway and from his neighbour's premises which were on a higher level than his, had been settling on his premises with the result that it fostered a breeding ground for mosquitoes, thus posing a health hazard to him and his family. Further, that the seepage was undermining the foundations of his house necessitating a great deal of expenditure on its repair. He also complained that his neighbour had constructed a drain for the disposal of his waste and sullage water, which emptied onto his premises and contributed to the adverse situation.

An investigation by the County Medical Officer of Health found the following:

1. That there was a drain reserve between the two properties which was in a state of good repair and sanitary condition;
2. That the Complainant claimed that the drain was on his property contrary to the survey drawings of a drain reserve on the cadastral plan;
3. That the neighbour directed his sullage water by a PVC pipe to this drain reserve and had been using this facility for over ten years.

The County Medical Officer also reported that Caroni (1975) Limited, the owner of the lands had granted permission to the Ministry of Works and Transport on 6th July, 2000 to undertake necessary drainage work on the lot. The Ministry confirmed that they were aware of the problem and were in the process of carrying out remedial works in order to solve it.

A subsequent visit by an Investigator of this Office which was attended by Officers of the Ministry and the County Medical Officer of Health disclosed that there was no evidence of constructed drains but what appeared to be a natural water course lay between the two properties; that the Complainant's property was eroding and various cracks appeared on his house. An Officer of the Ministry disclosed that a tractor had been brought on to the property in order to develop the drain but this was met by objection from the neighbour who threatened legal action. There appeared to be a boundary dispute between the Complainant and his neighbour.

A subsequent communication from the Ministry disclosed that:

- (i) Efforts to carry out remedial works (construction of a box drain) were hampered by the dispute;
- (ii) The respective properties had been leased from Caroni Limited which gave permission for the construction of the drain the boundaries of which were not properly defined;
- (iii) The District Engineer would pursue identification of the boundaries with Caroni Limited and make another attempt to resolve the conflict which had arisen.

The matter is being pursued.

OMB:0108/1999

MINISTRY OF INFRASTRUCTURE AND LOCAL GOVERNMENT

The Complainant, a resident of the County of St Andrew, complained that as a result of road construction being carried out in the vicinity of his property at Ganteaume Trace, Nestor Village in 1996 and the use of heavy equipment in the excavation of an existing drain in order to facilitate the laying of cylinders, his property had been damaged. He claimed the sum of \$14,455.00 which he said he had incurred in repairing his property. He also requested that a retaining wall be constructed in order to prevent further erosion.

On bringing the complaint to the attention of the Ministry and the Land and Water Development Division of the Ministry of Agriculture, the latter advised that the matter had been referred to the Project Director, Project Execution Unit for further geo-technical and/or structural survey.

Subsequently, in November 2001, I was notified by the Ministry that the Complainant had agreed to accept the sum of \$12,101.00 in full and final settlement for damage to his property.

OMB: 0355/2001

MINISTRY OF INTEGRATED PLANNING AND DEVELOPMENT (Town and Country Planning Division)

The Complainant who resides at Orchard Gardens North, Chaguanas approached my Office for assistance in respect of a severe problem which affected not only himself but approximately three hundred (300) households comprising one thousand two hundred residents (1,200) in the area.

The Town and Country Planning Division had granted approval for the owner/developer to construct two (2) additional buildings, “Twin Towers”, in the area. These buildings when constructed would be connected to the already overloaded sewer system. The sewer system had not been functional since August, 1999 and as a result, raw sewage flowed into drains thereby causing an environmental hazard, putting the health of the residents and their children at risk.

The complainant reported that he and the other residents had petitioned various Government Ministries and Departments for assistance in resolving their problem but to date had received no assistance.

I referred the matter to the Permanent Secretary of the Ministry of Infrastructure Development and Local Government, the Director, Town and Country Planning Division, the Permanent Secretary, Ministry of Integrated Planning and Development, the County Medical Officer of Health, Couva, the Chief Executive Officer, Chaguanas Borough Corporation and the Director of the Environmental Management Authority because I felt that all these departments were stakeholders in this matter.

The Permanent Secretary, Ministry of Infrastructure Development and Local Government responded to my letter informing me that they had in turn referred the matter to the Water and Sewerage Authority since the Sewer Planning plant was a privately owned facility and fell under the Authority’s jurisdiction. The Ministry further revealed that the Water and Sewerage Authority had not received any application for and therefore had not granted approval for the construction of the two (2) additional commercial buildings and had so advised the Acting Director, Town and Country Planning Division.

The Acting Director, Town and Country Planning Division in her letter dated **2nd November, 2001** informed me that the developer had sought the agreement of the then Honourable Minister responsible for Town and Country planning for a variation of policy in the area. This was granted by letter dated **3rd May, 2000**. He gave approval for the construction of two (2) towers with a maximum height of six (6) floors, one of which was to be residential.

The application for the erection of the “Twin Towers” was submitted on **27th October, 2000** but was varied from the agreement made with the Honourable Minister. The Acting Director, Town and Country Planning Division therefore referred the matter to the Honourable Minister for his instructions.

The Acting Director, Town and Country Planning Division further advised that the Water and Sewerage Authority had responsibility for the design of the plant and the developer had responsibility for its maintenance. Ensuring that the plant functions efficiently would be the responsibility of the Health Authority and the Environmental Management Authority.

The Chief Executive Officer, Chaguanas Borough Corporation has informed me that the matter is being investigated and that the Corporation will meet with the residents of Orchard Gardens to discuss their plight. Neither the County Medical Officer of Health nor the Director, Environmental Management Authority has to date responded to my enquiries.

The matter is being pursued.

OMB:0195/1999

OMB:0197/1999

MINISTRY OF NATIONAL SECURITY

The Complainants were employed temporarily as Mess Stewards in the Cadet Force Division of the Ministry and by the time of their complaint to me they had served continuously for a period of twenty-seven (27) years. One of them was due to retire shortly. They had made repeated requests to be placed on the permanent establishment so that they would become entitled to retirement benefits on reaching retiring age.

Enquiries revealed that the two offices of Mess Steward were supernumerary positions not intended to be made permanent. However, in view of the stewards' predicament, the Ministry undertook to have the establishment of the positions revised. As a step towards revision of the position, a request was made to the Officer in Charge of the Cadet Force inviting him to give a historical background and to justify the creation of the posts on a permanent basis.

Further investigation revealed that in 1963, a previous holder of the post was in receipt of retirement benefits but that a Cabinet Note had given effect to the abolition of the posts in these words:

"The present arrangement whereby the Garrison's Mess is served by full time Government employees (Stewards) should be discontinued and assistance in that connection given in the form of a subvention, as the Mess is really an Officers' Club operated on a voluntary basis under a management committee, this will mean the abolition of the posts of Stewards and the saving converted to a grant."

This recommendation was never implemented with the result that provision was made in successive years for the posts to be filled on a temporary basis. The incumbents were employed on the same terms and conditions applicable to permanent employees in the Public Service.

In view of the situation, I recommended that the Complainants' position be regularized so as to enable them to receive superannuation benefits on retirement.

The Ministry has since approached the Director of Personnel Administration to have the anomaly rectified.

The matter is being pursued by this Office.

OMB:0053/2000

**MINISTRY OF PUBLIC UTILITIES
(TELECOMMUNICATIONS SERVICES
OF TRINIDAD AND TOBAGO)**

The Complainants carried on a business in Port of Spain. The Telecommunications Services of Trinidad and Tobago (TSTT) supplied telephone services to the business premises and to the residence of the Complainants which was situated on the same compound. There were separate bills in respect of the business premises and the residence.

The Complainants queried calls listed against them of which they alleged they had no knowledge and for which they had given no authorization. These calls were made '*inter alia*' to Santo Domingo, Phillipines, California, Arizona and Hong Kong. The charges exceeded the sums of \$25,000.00 in respect of the business premises and \$300.00 in respect of the residence. TSTT acknowledged initially that unauthorized use was made of the service and credited the respective accounts with these sums.

Thereafter charges for calls which were made with the same frequency and duration late into the night, including calls to adult entertainment services appeared on the bills of the Complainants from month to month. These were protested by the Complainants on a regular basis. Efforts were made between the parties to have the matter settled but to no avail. On 18th November, 1999, TSTT demanded payment of arrears in excess of \$69,000.00 in respect of the business premises and \$47,000.00 in respect of the residence.

Efforts were made with the recently established Regulated Industries Commission to have the matter settled by arbitration but without success.

It was against this background that the Complainants filed their complaint with the Ombudsman seeking his assistance in having the matter resolved. On 8th December, 2000, I convened a mediation conference which was attended by the Complainants, representatives of the Regulated Industries Commission and representatives of TSTT.

The following issues were discussed and approved by those present:

1. That in order to recover the respective amounts from the Complainants since the Complainants had not admitted the debt, it was necessary for TSTT to take the matter to the High Court. The limitation period with respect to the debt incurred before

1997 had expired and time was fast running out with respect to the debt incurred in 1997.

2. Litigation, whether before the High Court or by arbitration would have entailed much time and expense and would have related only to the reduced amount for which TSTT could have taken action.
3. The hitherto good relationship which had existed between the parties prior to 1997 when the charges first appeared had deteriorated to such an extent that it was necessary to bring finality to the dispute.

In these circumstances, I recommended to the Board of TSTT that the charges be withdrawn. I have been informed that the charges were subsequently withdrawn.

OMB:0660/2000

**MINISTRY OF PUBLIC UTILITIES
(Water and Sewerage Authority)**

A property owner in San Fernando complained to me that he was receiving three separate bills from the Water and Sewerage Authority for the supply of water to his premises.

He stated that there was only one building on the property and it was assessed by the City Corporation as residential with an Annual Rateable Value of seven thousand, five hundred and one dollars (\$7,501.00).

In response to my enquiry the Authority's Director, Customer Services wrote to advise that the property was assessed as an apartment building and as a consequence each apartment would have to be billed separately.

I subsequently wrote to the Chief Executive Officer to draw his attention to the provision of Section 16(1) of the Fourth Schedule to the Water and Sewerage Authority Act which prescribed that the Authority was only entitled to levy a water rate in respect of a "house or any premises" on the annual rateable value thereof. Since the annual rateable value was fixed at seven thousand, five hundred and one dollars (\$7,501.00) the Authority was only entitled to charge rates on the basis of that value.

Note: *In 1995/1996 the Authority had embarked on an exercise to disaggregate a number of their customers' accounts in compliance with an order that was issued by the Public Utilities Commission. Order 78 had decreed that where the annual taxable value of the separate parts of a building can be disaggregated each part should be classified and billed separately. This order was contrary to the provisions of the Act and gave rise to*

injustice and hardship to property owners who had rented out their houses into rooms and apartments.

The issue was highlighted in my 18th Annual Report and a new policy was effected by the then Honourable Minister of Public Utilities in 1996 which resulted in the cessation of all disaggregations. In fact some 15,000 residential customers had their accounts revised. The Order was also modified by the then Public Utilities Commission which directed that such Orders were only applicable to self-contained Units such as condominiums owned by different owners to which an annual taxable value was fixed in respect of each unit.

The facts of the present case suggest that the practice of disaggregation has been revived by the Authority contrary to both the law and Government's stated policy.

OMB:0668/1999

**MINISTRY OF WORKS AND TRANSPORT
(Port Authority)**

The Complainant, an employee of the Port Authority was injured on the 18th October, 1988 in the course of his duties and proceeded on injury leave until 31st May, 1989. As a result of such injury he was given an assessment of 30% permanent partial disability and based on his salary was awarded the sum of \$38,149.06. In accordance with the Workmen's Compensation Act, the Authority was entitled to deduct from the award, payments made to him while on injury leave. This amounted to \$9,890.16 which was deducted from his entitlement.

Two complaints were brought to the attention of this Office. The first related to the deduction made from the award and the second related to retroactive benefits with respect to the Workmen's Compensation award due no doubt to the subsequent adjustment in the Complainant's salary.

Enquiries from the Port Authority with respect to the delay in the payment of the supplemental amount, elicited the reply that the delay was due to the fact that the claims, one of which was the complainant's, were being computed and subject to audit.

Finally, in August 2001, the supplemental amount was paid to the Complainant.

OMB: 0300/2000

**MINISTRY OF PUBLIC UTILITIES
(Water and Sewerage Authority)**

The complainant sought my assistance after having failed in his efforts to persuade the Water and Sewerage Authority to provide his home with a supply of potable water.

He informed me that he had been denied water for his home although he had paid the authority the required fee for the connection of service.

His home, a substantial dwelling house, was built *fifteen (15)* years ago on a portion of land owned jointly by his mother and an aunt who resides abroad. The building appears on the warden office assessment roll in the complainant's name and the relevant taxes were paid on a regular basis.

Two (2) years ago simultaneous applications for the supply of water were made by himself and his brother. His brother lives in an adjoining building. Service connections were denied when both brothers were unable to provide the Authority with letters of consent from their mother.

His brother succeeded eventually in getting the service through the efforts of an attorney-at-law. The complainant was not successful although he had spent considerable sums of money laying pipes and other fittings.

When the matter was raised with the Authority I was told that the Authority required the consent of the owner of the lands for the laying of pipes and other infrastructure on her land

The Authority was reminded that the complainant had already laid the necessary pipes and fittings more than two (2) years ago. The only action that was required for the supply of water to the premises was the attachment of a connection from the Authority's mains on the roadway.

The matter is still to be resolved.

NOTE: *I have received a number of complaints against the Water and Sewerage Authority of a similar nature. The matter is further dealt with under the "Areas of Concern".*

OMB: 0291/2000

TOBAGO HOUSE OF ASSEMBLY
(Division of Health and Social Services)

The Complainant a resident of Mason Hall, Tobago was accidentally exposed to a toxic chemical substance during a fogging operation by the Insect Vector Control Section of the Health and Social Services Division in *December 1998*.

The complainant reported the incident to the Division in *March 1999* and a claim for compensation for medical expenses was submitted. Up to the time when the matter was brought to my attention, in *May 2000*, she had received no response from the Division.

I referred the complaint to the Secretary for Health and Social Services of the Assembly who in turn referred it to the Hospital Medical Director for a report on the matter. The claim for compensation was substantiated and the complainant was requested to provide a detailed list of expenses incurred. Particulars amounting to a sum of *twenty-three thousand two hundred and twenty-five dollars and seventy-three cents [\$23,225.73]* was submitted which included costs of airfare between Trinidad and Tobago and the United States, doctors' fees and medication.

The Secretary of Health and Social Services requested my recommendation as to the amount claimed and to a commitment from the complainant to accept the sum recommended in full and final settlement of her claim.

I noted that the amount claimed by the complainant only took into account the expenses incurred in seeking medical attention abroad. I noted also that she was still seeing her local doctors. No account was taken with respect to her pain and suffering and loss of amenities, factors which a Court of Law would take into consideration in making an award.

I consulted the complainant and recommended the sum of *thirty thousand dollars (\$30,000.00)* in full and final settlement of her claim.

This amount was accepted by the Assembly which is awaiting funds before settling her claim.

SUMMARY OF OTHER COMPLAINTS RECEIVED IN 2002

Infrastructure Development and Local Government

- ❖ Unsanitary conditions created due to the failure of the Regional Corporation to regularly clean and maintain roadside drains.
- ❖ Failure of the Regional Corporation to take necessary action in alleviating health nuisances arising from public drain which was blocked by the owner of a supermarket.
- ❖ Failure of the Regional Corporation to construct secondary road to allow access to agricultural holdings and the transport of produce to the market.
- ❖ Denied assistance by Regional Corporation to construct a retaining wall in order to prevent slippage and erosion of property.
- ❖ Failure of the Regional Corporation to take action against a neighbour who is constructing a building on his boundary line.
- ❖ Failure of the Corporation to demolish unauthorized structure on roadway which is hindering the free flow of traffic.
- ❖ Failure of the Corporation to take appropriate action under the Public Health Ordinance to clear vacant lot in the neighbourhood infested with rodents, mosquitoes and snakes.

Water and Sewerage Authority

- ❖ Failure of the authority to resurface and pave roadway following repairs undertaken to underground mains.
- ❖ Bills received regularly although supply of water to premises is non-existent.
- ❖ Denied access to regular supply of truck borne water.

Tobago House of Assembly

- ❖ Alleged discrimination in employment practices.
- ❖ Unfair dismissal from job as a female daily rated labourer.

Ministry of Transport

- ❖ Delay on the part of the Licensing Department to effect transfer of ownership of newly purchased vehicle.
- ❖ Request to establish Maxi Taxi hub in Curepe denied.
- ❖ Inordinate delay in the release of seized motor vehicle.
- ❖ Maxi Taxi stand creating nuisances for residents.

Judiciary

- ❖ Inordinate delay in having matter placed on list for hearing at the High Court.
- ❖ Delay in having matter listed for Appeal hearing.

Ministry of Legal Affairs

- ❖ Unable to obtain grant of probate due to missing documents.
- ❖ Notice to appear in Court issued by DPP's office for matter which had been previously dismissed.
- ❖ Unable to obtain an original copy of a birth certificate which was applied for two years ago.
- ❖ Inordinate delay in the processing of Real Property Ordinance application which was filed since 1996.

Ministry of Education

- ❖ Daughter not accepted to attend primary school.
- ❖ Alleged discrimination in the distribution of concessions to persons to operate High School canteens.
- ❖ Denied upgraded status from Assistant Teacher III to Teacher I.

National Housing Authority

- ❖ Assistance to obtain deed for property upon the discharge of mortgage.

Social Welfare Department

- ❖ Delays in the processing of claims for Old Age pension.
- ❖ Denied payment of public assistance.
- ❖ Old Age pension reduced by \$100.00 due to payment from National Insurance Board.
- ❖ Old Age pension cheques encashed by unknown persons and file misplaced by the department.
- ❖ Public Assistance payments for grandchildren withdrawn and file misplaced by the department.

Housing and Settlements

- ❖ Assistance to obtain housing accommodation.
- ❖ Delay in the payment of compensation for lands which were acquired by Government to widen road.
- ❖ Denied compensation for private land which is occupied by Regional Corporation.
- ❖ Denied lease for property which was previously granted to her deceased husband.
- ❖ Denied compensation for lands which were acquired for the purpose of laying natural gas pipelines.

[This list is not exhaustive of the complaints received during the year 2001]

APPENDICES

**When Citizens Complain:
The Role of the Ombudsman in Improving Public Services**

by

Martina Phillip, Investigator

I attended the fifth annual study programme entitled, *When Citizens Complain: The Role of the Ombudsman in Improving Public Services*, which was held in London from 14th to 25th May, 2001. This programme was designed and arranged by Public Administration International (PAI) in collaboration with the Management and Training Services Division of the Commonwealth Secretariat.

Other participants who attended the programme came from Armenia, Botswana, Cook Islands, Ghana, Greece, Indonesia, Laos, Malaysia, Malta, Malawi, Mongolia, Nepal, Nigeria, Papua New Guinea, Portugal and South Africa.

The programme provided for presentations and discussions about participants' Constitutions and Ombudsman system and by extension it enabled participants to make comparisons between the various constitutions. In addition, participants were able to identify areas for developing and improving their own systems.

Briefings were held '*inter alia*' on the origins, growth and development of the Ombudsman's concept, the importance of the Ombudsman in promoting good governance and the importance of the Ombudsman in protecting human rights. Briefings were also held on the role that the Ombudsman should play in a changing public service in terms of accountability, ministerial responsibility, open government, redress of grievances and judicial review.

Visits were made to the offices of the Parliamentary Commissioner for Administration, the Local Government Ombudsman, the Police Complaints Authority and the Prisons Ombudsman.

Syndicate work was done on a few U.K. cases and also on the future of the Ombudsman institution.

The lectures, briefings and syndicate work were very informative and I gained considerable knowledge from the exchange of information and experience between the participants.

I thank the government and the Commonwealth Secretariat for affording me the opportunity to participate in this study programme. I also thank Public Administration International for the warm hospitality extended to me.

STAFFING

With the completion of the strategic review exercise referred to in my last Annual Report, a more appropriate staff structure has begun to take shape. Two key appointments have now been made, viz:

1. The appointment of a full-time Investigator in Tobago, operating out of our new permanent office at #32 Wilson Road, Scarborough, Tobago. The Investigator has the support of three (3) other officers (clerical, stenographic and maintenance). These arrangements took effect from June 5, 2002.
2. The appointment, for the first time, of a Communications Specialist, who is expected to introduce programmes and projects aimed at improving public awareness of the Office of the Ombudsman, leading to its greater operational effectiveness.

During the period under review, the Ombudsman's Legal Officer accepted an assignment in another organization.

A current organizational chart accompanies this report.

