



Summary of Proceedings

Public Hearing

Held on **Friday January 18, 2019** from **10:20 a.m. to 12:03 p.m.**

Subject matter: An Inquiry into the feasibility of widening the availability of non-custodial penalties in the criminal justice system

Venue: J. Hamilton Maurice Meeting Room, Mezzanine Floor, Office of the Parliament, Tower D, The Port of Spain International Waterfront Centre, 1A Wrightson Road, Port-of-Spain.

Committee Members

The following Committee Members were present:

- Mrs. Sophia Chote S.C.
- Mr. Clarence Rambharat (Vice Chairman)
- Dr. Lester Henry
- Mrs. Vidia Gayadeen-Gopeesingh, MP
- Mr. Taharqa Obika

Witnesses who appeared

The following officials of the Ministry of National Security appeared:

- Mr. Vel Lewis Permanent Secretary
- Mr. Hayden Walcott Chief Welfare Officer
- Ms. Sintra Maharaj Chief Probation Officer
- Mrs. Marian Taylor Probation Officer III (Ag.)

The following officials of the Trinidad and Tobago Police Service appeared:

- Mr. Deodat Dulalchan Deputy Commissioner of Police (Ag.) Operations

- Mrs. Joanne Archie Assistant Commissioner of Police (Ag.) Operations
- Mr. Jayson Forde Assistant Commissioner of Police (Ag.) Anti-crime Operations

The following officials of the Office of the Director of Public Prosecutions appeared:

- Mr. Roger Gaspard S.C. Director of Public Prosecutions
- Mrs. Tricia Hudlin-Cooper Assistant Director of Public Prosecutions
- Mr. Nigel Pilgrim State Counsel III

The following officials of the Trinidad and Tobago Prison Service appeared:

- Mr. Gerard Wilson Commissioner of Prisons (Ag.)
- Mr. Carlos Corraspe Assistant Commissioner of Prisons (Ag.)

Key Issues Discussed

The following are the main issues arising from discussions with the **Office of the Director of Public Prosecutions**:

- i. Magistrates may be overburdened by increased sittings in both Magistrates Courts and the Petty Civil Court which may have accounted for the reduced use of the Petty Civil Court for matters \$50,000 and under;
- ii. A lack of resources have contributed to significant systemic and institutional shortcomings within the Criminal Justice system;
- iii. There is a need for an increase in Judicial Officers and Probation Officers;
- iv. The Probation Officers' role should be expanded;
- v. Remand prisoners enjoy the presumption of innocence;
- vi. Data is necessary in order to effectively evaluate non-custodial penalties;
- vii. The Office of the DPP utilises a standardised level of testing which is divided into two (2) stages. The first stage identifies the sufficiency of evidence while the second stage highlights whether the prosecution is in the interest of the public;
- viii. In cases where small amounts of marijuana or narcotics are discovered, the DPP may intervene for offenders under the age of eighteen to prevent the harsh reality of sentencing;
- ix. Evidence is sufficient if the evidence makes prosecution and conviction possible;
- x. The DPP is of the view that the reduction in the use of plea bargaining may be due to cultural reasons;
- xi. Plea bargaining is usually used in the High Court;
- xii. Persons must be better informed in order to increase the use of plea bargaining;

- xiii. Research must be undertaken to demonstrate whether there is a connection between ‘soft’ penalties and vigilante justice;

The following are the main issues arising from discussions with the **Trinidad and Tobago Police Service**:

- i. Training is ongoing for police prosecutors through the Judiciary and the Office of the DPP.
- ii. The TTPS has not provided training to its officers on the benefits of non-custodial penalties;
- iii. There are currently no statistics from the Court and Process Branch of the TTPS outlining offences prosecuted by the police where non-custodial penalties were imposed;
- iv. Recently, twenty-six (26) ex-offenders were sent to the Community Police Unit for rehabilitation; Feedback received from the TTPS on the effectiveness of the individual’s rehabilitation assists the Magistrate/Judge in determining an appropriate sentence;
- v. The TTPS is in need of research on non-custodial measures. There is also a need for a cost benefit analysis on the increased use of non-custodial penalties;
- vi. The imposition of non-custodial sentences should also place focus on the victim of the crime where sentences should provide justice for the victim and match the gravity of the crime;
- vii. Traditionally, police prosecutors do not recommend penalties;
- viii. Non-custodial penalties do not exempt an offender from being sentenced;
- ix. The TTPS is currently advancing preparations for the use of electronic tracking devices;
- x. Three hundred and one (301) officers have begun training for the implementation of electronic monitoring;
- xi. A Liaison Officer for the TTPS has already been identified to assist in the electronic monitoring process;
- xii. There is a need to have closer collaboration between the TTPS, the Trinidad and Tobago Prison Service and crucial agencies such as Vision on Mission to increase the effectiveness of Youth Clubs;

The following are the main issues arising from discussions with the **Ministry of National Security**

- i. There are currently thirty-five (35) Probation Officers on the establishment which is insufficient:
 - a. One (1) Chief Probation Officer
 - b. One (1) Assistant Chief Probation Officer
 - c. Five (5) Probation Officer III
 - d. Sixteen (16) Probation Officer I
 - e. Twelve (12) Probation Officer II

- ii. The main priority of the Probation Officers is to produce reports for the Magistrates Court and High Court;
- iii. In light of the existing staff constraints, there was an increase in Children Probation Officers for the Children's Court. The breakdown is as follows;
 - a. Three (3) Children Probation Officer III
 - b. Six (6) Children Probation Officer II
 - c. Nine (9) Children Probation Officer III
- iv. Additionally, approval has been granted for:
 - a. Two (2) Children Probation Officer III
 - b. Four (4) Children Probation Officer II
 - c. Eighteen (18) Children Probation Officer IApproval for the requested complement of Probation Officers may take 2 to 3 years.
- v. Shortlisting has been completed and as such, new Probation Officers should be assigned to the Probation Division in 2019;
- vi. The positions created for the Probation Division is based on the staffing requirements;
- vii. The Ministry has noted the DPP's suggestion to expand the role of the Probation Officers to match international standards;
- viii. The maintenance of a prisoner is over \$15,000 per month;
- ix. Non-custodial sentences may be considered in an effort to reduce the current prison population;
- x. A contract has been awarded to facilitate the purchase of three hundred (300) electronic tracking devices;
- xi. There are no major hindrances in implementing the electronic tracking device system, however, minor legislative adjustments are required to facilitate the seamless integration of these devices;
- xii. An office has been created and staffed in order to assist in the monitoring and issuance of these devices;
- xiii. The overtime arrangements associated with Prison Officers is to be regulated in order to reduce cost;
- xiv. The cost per person for the electronic monitoring device has not been calculated;
- xv. The current system involves the Probation Officer II vetting the Probation Officer I's reports. The Probation Officer III will do likewise for the Probation Officer II;
- xvi. In critical matters, the Chief Probation Officer and Assistant Chief Probation Officer may also vet the Probation Officers' reports;
- xvii. In light of the foregoing, efforts are currently being made to improve the quality of reports emanating from the Probation Division;
- xviii. A first degree is required in order to become a Probation Officer. It is suggested that a written component be included in the recruitment and selection criteria for this post;
- xix. A Level of Service/Case Management Inventory (LS/CMI) risk assessment report has not been utilised prior to the submission of reports from the Probation Division;

The following are the main issues arising from discussions with the **Trinidad and Tobago Prison Service**:

- i. Non-custodial sentences may significantly reduce overcrowding and contamination within prisons;
- ii. Restorative justice is often misused within the prison context;
- iii. According to Standard Minimum Rules for the Treatment of Prisoners, the only thing that is withdrawn from prisoners is freedom;
- iv. It is suggested that potential inmates should alternatively be able to repay the victim through the provision of a service;
- v. Mediation may curb instances of vigilante justice;
- vi. Forty-seven (47) persons have been arrested for breaches of maintenance orders;
- vii. More innovative measures should be formulated to facilitate the payment of child support. It is suggested that an arrangement be made where funds may be automatically deducted from a person's salary;
- viii. The imprisonment of errant parents who may be in breach of maintenance is a cycle that is beneficial to neither the state nor the children involved;
- ix. Non-custodial penalties may be better suited for specific cases such as non-payment of fines;
- x. In an effort to reduce deviant behaviour amongst students, schools have opted to visit the Youth Training and Rehabilitation Centre to highlight the possible outcome of engaging in criminal behaviour;
- xi. The Police and Prisons Youth Clubs have made efforts to maintain order among the youth through inclusive programs;
- xii. Prison rules allow for convicted inmates who demonstrate good conduct and industry above the normative level to be considered for discretionary special remission for periods of three (3) days or five (5) days;
- xiii. An inmate must first go through 3 stages prior to discretionary special remission. Having regard to the length of his/her sentence, inmates may be specially categorised prior to implementation of discretionary special remission. If six (6) months have been spent in this category, the inmate is allowed to request leave up to seven (7) days;
- xiv. The minimum sentence must be four (4) or five (5) years in order to qualify for this privilege;
- xv. According to Prison Rule 285, any prisoner who have served under twelve (12) months is entitled to six (6) months off of half of his/her sentence (normative remission);
- xvi. An offender who has served more than a year is entitled to 1/3 off the sentence (special remission);
- xvii. The Communications Unit of the Prison Service has embarked on a public interface initiative called "Conversations with the Commissioner".

This public hearing can be viewed on demand via our YouTube Channel.

<https://youtu.be/pM4JWMkD2z8>

Contact the Committee's Secretary

jscfla@tparliament.org or 624-7275 Ext. 2283/2284/2277

Committees Unit

January 30, 2019.