

The Integrity Commission of the Commonwealth of Dominica

2008 - 2011

By: Julian N. Johnson

Background: Purpose & Vision

- Environment/Culture – Sociology of small size; political culture of “Our time to eat” “Where cow tie it must eat.” (Patois)*
- Long title to the Act – To establish a commission to receive declarations of PIPL for purpose of establishing probity, integrity and accountability in public life.
- To foster the development of a nation free of corruption and governed by persons in public life who are imbued with the highest standard of integrity.

*Professor Trevor Munroe has put in thus: “In election after election in the last 10 to 20 years across the region, corruption scandals have been significant. Governments have been removed largely on the grounds of being corrupt and replaced by oppositions largely on the basis of promises of integrity, only to repeat the cycle subsequently, thereby reconfirming popular concern with the issue of corruption and contributing to public cynicism.” (Jamaica Gleaner, 27/3/2011)

Background: Mission

- The Integrity Commission will promote integrity in governance by providing effective oversight of the administration of public functions in order to encourage transparency in transactions, and maintain legal compliance by persons in public life and other public officials so that public institutions will be free of corruption, and so that the highest standards of honesty, equity and fairness will be observed in the use of public resources and in the distribution of benefits for the welfare of the people of our nation.

Background: (values encapsulated in the Commission's Prayer)

- Just and fair decision-making
- Deliberations and actions in accordance with Oaths of office
- Promoting justice doing right Without fear or favour
- Faithfulness to truth

Mandate: Statutory Authority

- IPO Act, 2003 was passed in Parliament on April 30, 2003; (In T&T – creature of Constitution)
- Act was assented to in May 29, 2003 and published in the Official Gazette of June 5, 2003;
- Came into force on Sept. 1, 2008 (SRO No. 24 of 2008)
- Effect to be given to clear and explicit language of the Act. Words of Act speak the intention of parliament.

Mandate: The Commission

- Commission is a statutory body established under the Act
- Comprises seven members - a Chairman and six other members.
- All members are appointed by the President under section 4 of the Act;

Mandate: The Commission

Composition of the Commission:

- Chairman on the advice of the PM (Attorney-at-law of 15 years experience);
- Two members on the advice of the PM;
- Two members on the advice of the Leader of the Opposition;

Mandate: The Commission

Composition of the Commission cont'd:

- A chartered/certified Accountant on the recommendation of Association of Chartered Accountants
- An Attorney-at-law recommended by the Dominica Bar Association
 - [Nominees of the PM and Leader of the Opp. should be persons of high public standing and reputation for personal integrity – Sec. 4(3) of the Act]

Mandate:

Functions of the Commission

- To receive, retain and examine all declarations filed with it;
- To make such enquiries as it considers necessary in order to verify or determine the accuracy of any declaration filed with it;
- ▶ To inquire into any allegation of bribery or act of corruption under the Act;
- ▶ Receive and investigate complaints regarding non-compliance with provisions of the Act; and

Mandate:

Functions of the Commission

- Perform such other function as is required under the Act:
 - examine and investigate complaints of breaches of the Code of Conduct and report to Director of Public Prosecutions (DPP);
 - inquire into suspicion of unaccounted property and report to DPP;
 - prepare Annual Report on activities for Parliament. (to inform Parliament on activities of IC and its recommendations)

Mandate:

Functions of the Commission (Cont'd)

- Commission has not taken over the functions of the following institutions/persons(I) DA (II) PAC (III) PSC (IV)DPP (VI)Police (VII) Ombudsman (VIII) Accounting Office in Dept. of Govt.
- Legal rules/Principles governing exercise of Commission's powers – non-retrospective application of criminal law: rules of natural justice: stay within four corners of the statute.
- Confidentiality Provisions of the Act –s. 21 & s. 50

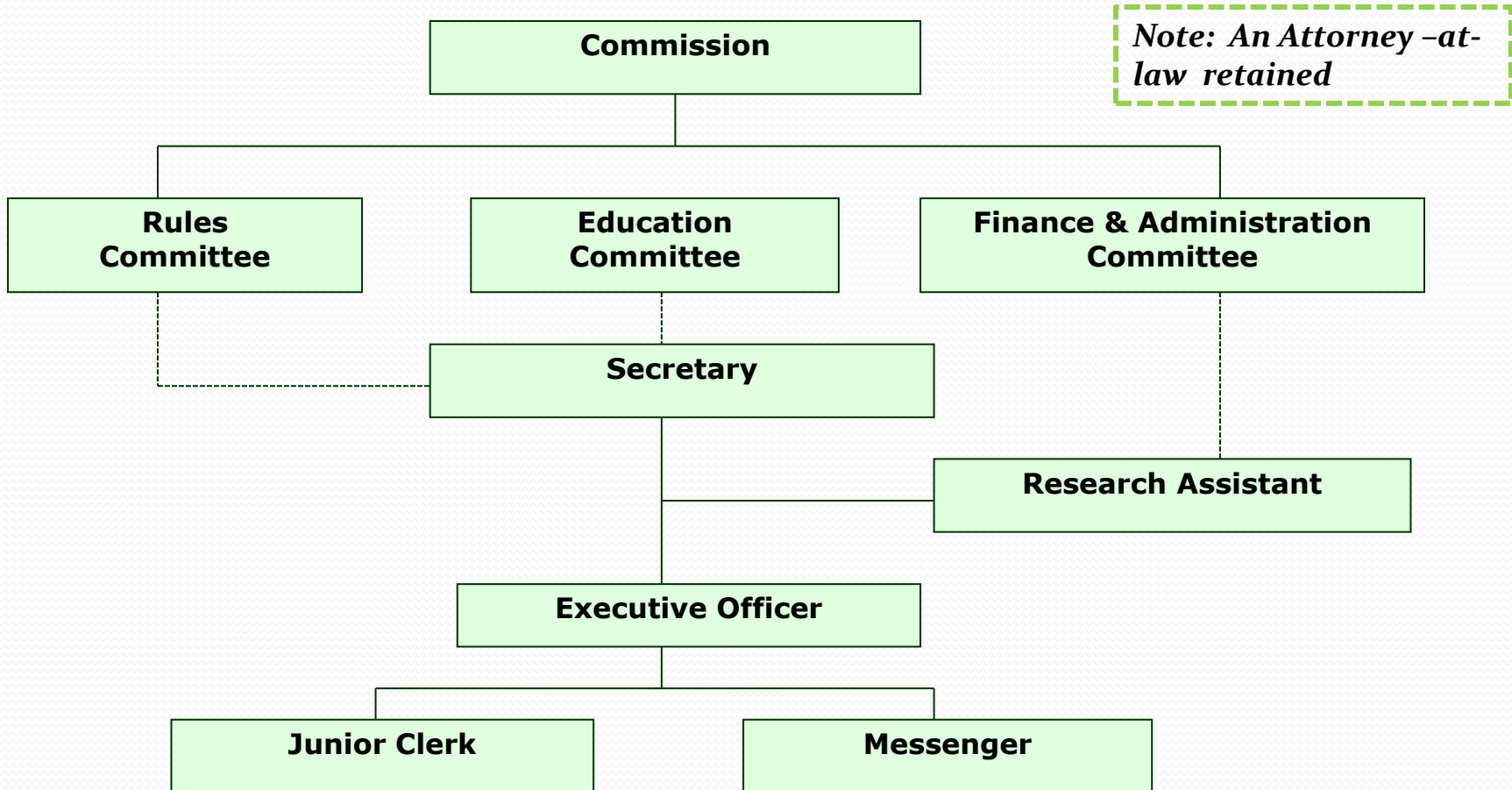
Mandate: Tenure of Commission

- Appointment: fixed term of 3 years;
- Remuneration: as shall be determined by the Cabinet;
- Removal for cause: on grounds of ill-health or misbehaviour (determined by a Tribunal appointed by the President).
- Office may be vacated by operation of law – s. 7(1) (a) & (b)

Mandate: Independence

- The Commission is an independent governance institution subject to oversight by the Supreme Court and Parliament.
- The Commission in the exercise of its functions under the Act shall not be under the control or direction of any person or authority – including the President, the Cabinet, the Prime Minister or the Minister (Sec. 13)
- Commission's expenses are “a charge on the Consolidated Fund” (Sc. 52)

Programme: Current Structure



Programme: 2008 – 2010 Highlights

- Compiled comprehensive list of persons in public life;
- Established the Commission's secretariat;
- Reviewed the Act and suggested numerous amendments to make work of Commission more effective;
- Researched practices and operations of other Commissions;
- Held education sessions;
- Disposed of three 'complaints';
- Conducted two (2) hearings.

Programme: 2008 - 2010

	2010/11	2009/10	2008/09
Persons in public life listed	162	147	136
Persons who filed declarations	157	134	111
Persons who did not file or filed late	7	46	40
Declarations certified for year	Ongoing	92	78
Persons gazetted for not filing/filing late	7	46	40
Cases reported to DPP for not filing/filing late	7	46	40

Compliance Rate

2008/2009 – 71⁰%

2009/2010 – 92⁰%

2010/2011 – 96⁰%

Programme: 2008 – 2010 Highlights

- Sent numerous notices/reminders to persons in public life (to file declaration);
- Received and examined declarations of persons in public life;
- Published non/late filers in the Official Gazette;
- Held a number of interviews to recruit staff of the Commission;
- Generally, ran the Commission and made it a credible entity in Dominica.

Programme: Work Plan 10/11

- Thus far, the Commission has:
 - Received declarations of 157 persons in public life (out of 162); deadline was March 31, 2011;
 - Performed ongoing examination of these declarations;
 - Held five seminars for members of the public and persons in public life;
 - Received and disposed of one complaint against a person in public life;
 - Is investigating another complaint against a person in public life;
 - Attended numerous court sessions re 2009 defaulters.
 - Meetings with other oversight institutions- DPP; DA; CIR; PSC; C of P; FIU.

Programme: Work Plan 10/11

- Prepare **Rules of Procedure** for the Commission re section 58 of the IPO Act 2003;
- Education of persons in public life and the general public on the Act and matters re Integrity – sessions, publication of papers, town-hall meetings;
- Receive, examine and certify declarations of persons in public life;
- Establishment of the Commission's Website;
- Train and manage secretariat for achievement of Commission's work plan;

Challenges

- Limitations of the Act in its present form:
 - Ambiguity in the list of person in public life
 - Required changes to the Form 2 used for declarations
 - No discretion of the Commission to extend the time for filing
 - Ambiguity in section dealing with Trust property
 - The Commission cannot initiate inquiry on its own volition

Challenges

- Staff limitations and required amendments to the Org. structure
 - Limited/no skill in vital areas - financial analysis, legal research or for the conduct of investigations on staff
 - Staff are public officers subject to the Public Service Commission – Appointment, discipline & Removal
 - No authority to control staff – e.g. discipline, remuneration...
 - Keeping staff under direction/ control of Commission

Challenges

- Communication with the Executive and the independence of the Commission
 - Commission is wont to be treated like a Government department or division
 - Re travel on official business – Ministry of Finance insistence that commissioners travel require Minister's prior approval.
 - Commission members “not silent members of society” – free speech and prudence and fairness. (IPO Press Release of 17/3/2011 on Sir Brian's resignation)

Way Forward

- Statutory requirement of “staff adequate for prompt and efficient discharge of functions of the Commission” to be satisfied.
- Commission is respected as an independent and fundamental building block to a just and fair society;
- Networking among regional Commissions for the adoption of good practice, information sharing and for strengthening of processes (Regional Organization);
- Joint training sessions as required for Commissions’ staffs (regional)
- Secondment to better staffed commissions and related institutions.
- Library development

Way Forward (Cont'd)

- Institutional capacity building
- Strengthening integrity/ anti- corruption laws
- Strengthening of political will and other oversight professional will.
- Forensic accountancy services
- Computer forensics

X X X

Julian N. Johnson
Chairman, Integrity Commission
Commonwealth of Dominica
June 8, 2011