



Cayman Islands

Human Rights Commission

Promoting, protecting and preserving human rights

Annual Report 2016

Table of Contents

Glossary of Terms	4
Statement from the Chairman	5
Chapter 1: The Cayman Islands Human Rights Commission	6
1.1 Goals	6
1.2 Mission	6
1.3 Constitutional Guidelines.....	6
Chapter 2: Monitoring Human Rights in Policy, Practice and Legislation	8
2.1 Policies on handling of Cuban Migrants	8
2.2 Education Bill 2015	8
2.3 Labour Relations Bill 2015	9
2.4 Use of CCTV and video surveillance technology by the CIG	9
2.4.1 CCTV use in Lighthouse School	9
2.4.2 HMCIPS’s use of Drones.....	10
2.4.3 RCIPS Helicopter use of CCTV	10
2.5 Rehabilitation of Offenders Bill 2015.....	11
2.6 New Prisoner Phone System at HMP Northward	11
2.7 Prohibited Immigrants Bill	11
2.8 Immigration Concerns re. Former Spouses of Permanent Residency Holders.....	12
2.9 General Election 2017.....	12
2.9.1 Prisoner Voting Rights	12
2.9.2 Alleged breach of Lawful Administrative Action	13
2.10 Disabilities (Solomon Webster) Bill, 2016.....	13
2.11 Draft RCIPS Appeals Policy.....	14
2.12 Marriage Bill 2016.....	14
Chapter 3: Engagement with Public Officials, Civil Society and the Media	15
3.1 Opening of Police Custody Suites	15
3.2 Disabilities Committee Presentation	15
3.3 Cayman Islands Law Review Commission Discussion Paper on Bullying.....	15
3.4 LGBT+ Conference.....	15
3.5 Caribbean Regional Workshop on Alternatives to Detention	16
3.6 National Older Persons Policy Stakeholder Workshop.....	16
3.7 Overseas Territories Human Rights Conference.....	16
3.8 ICTA Regulations	17
3.9 RCIPS Taser Policy	18
3.10 DVDL Electronic Vehicle Licence System	18
3.11 Religion and the application for Permanent Residency and Caymanian Status.....	18
3.12 Cuban Migrants.....	19
Chapter 4: Human Rights Education, Events and Presentations	20

4.1	Mental Health Booklet.....	20
4.2	Human Rights Promotional Series	20
4.2.1	Honouring Women's History Month	20
4.2.2	Earth Day 2016.....	21
4.2.3	World Day for Cultural Diversity for Dialogue and Development	21
4.2.4	Banned Books Week	21
4.2.5	World Oceans Day	22
4.2.6	World Mental Health Day	22
4.3	Support for LGBT+ Community	22
4.3.1	Orlando Shootings	23
4.3.2	European Law, Human Rights and Same Sex Unions	23
4.4	HRC Website Launch	23
4.5	Human Rights Training for Prison Officers/Booklet.....	24
4.6	Constitution Accessibility for the Visually Impaired	24
	Chapter 5: Alleged Breaches or Infringements of Human Rights	25
5.1	Number of complaints received by alleged rights breached in 2016	25
5.2	Number of complaints by respondent entity.....	27
	Chapter 6: Acknowledgements	29
	Chapter 7: Moving Forward.....	31
	Appendices.....	32
	Appendix 1: Human Rights Commission Members.....	32
	Appendix 2: Cayman Islands Bill of Rights, Freedoms and Responsibilities (BoR).....	34

Glossary of Terms

BoR	Bill of Rights (Cayman Islands)
CCTV	Closed-circuit Television
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CIG	Cayman Islands Government
CILRC	Cayman Islands Law Reform Commission
Constitution	Cayman Islands Constitution Order 2009
DVDL	Department of Vehicle and Drivers Licences
ECHR	European Convention on Human Rights
FCO	Foreign and Commonwealth Office
GIS	Government Information Services
HMP	Her Majesty's Prison (Northward)
HMCIPS	Her Majesty's Cayman Islands Prison Service
HRC	Human Rights Commission
ICTA	Information & Telecommunications Technology Authority
IDC	Immigration Detention Centre
LGBT+	Lesbian, Gay, Bisexual and Transgender
MHC	Mental Health Commission
MLAs	Members of the Legislative Assembly
MOU	Memorandum of Understanding
NOPP	National Older Persons Policy
NSC	National Security Council
OT	Overseas Territory
PR	Permanent Residency
RCIPS	Royal Cayman Islands Police Service
RERC	Residency and Employment Rights Certificate
UN	United Nations
UNAOC	United Nations Alliance of Civilizations
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
WFMF	World Federation for Mental Health
WHO	World Health Organization
WHO-AIMS	World Health Organization Assessment Instrument for Mental Health Systems

Statement from the Chairman

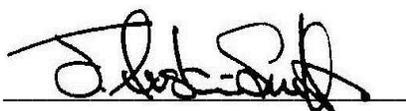
Throughout 2016 the Human Rights Commission sought to continue to uphold its constitutional mandate of promoting understanding and observance of human rights in the Cayman Islands. Through the acceptance and consideration of complaints alleging breaches of human rights, by working closely with the Cayman Island and British Governments and with international, national and local NGOs, we tried to address the human rights implications of issues that have dominated the public agenda. Equally, we have sought to draw public and Government attention to human rights concerns that have not received critical or public consideration.

In the process of considering complaints, the Commission addressed almost all the rights set out in Cayman's Bill of Rights, however, 2016 saw particular reinforcement of the rights to protection from torture and inhuman treatment, fair treatment for prisoners, non-discrimination and lawful administrative action. Immigration appeared to be of great concern to the public once again, though many of the complaints received on this topic can be attributed to the unusually high influx of Cuban migrants that landed and went through the asylum-seeking process this year. The number of complaints about the prisons and judicial system was also significant.

The Commission continued to review numerous policies, procedures and pieces of legislation developed by the Cayman Islands Government ("the CIG") to ensure compliance with the Bill of Rights. Notably, recommendations were made regarding the handling of migrants and asylum seekers, appeals procedures within the Royal Cayman Islands Police and for safeguarding the rights of persons in the LGBTQ+ community.

The Commission continued to increase engagement in public education in 2016. The creation of a Mental Health Booklet (in partnership with the Mental Health Commission) provided illustrative descriptions of how various rights apply in a mental health context and a series of statements by the Commission, recognising various international days on subjects relevant to human rights in the Cayman Islands, generated keen public discussion. The launch of the Commission's updated website also improved accessibility to the public generally and added extensive links to local, regional and international resources.

I encourage the public to visit our newly updated website (www.humanrightscommission.ky), join us on Facebook (www.facebook.com/cihrc), call us at 244-3685, or email us at info@humanrightscommission.ky to get involved in promoting and protecting human rights in the Cayman Islands.



James Austin-Smith
Chairman, Human Rights Commission

Chapter 1: The Cayman Islands Human Rights Commission

1.1 Goals

The goals of the Commission are *promoting, protecting and preserving human rights*.

1.2 Mission

To lead in promoting, protecting and preserving human rights in the Cayman Islands by:

- promoting the integration of human rights values into everyday life;
- encouraging government accountability to national and international human rights standards;
- embracing the Cayman Islands Bill of Rights, Freedoms and Responsibilities and the principles of democracy; and
- empowering all persons to understand and exercise their rights.

1.3 Constitutional Guidelines

The Constitutional guidelines for the Commission are found in Section 116 of the Cayman Islands Constitution Order 2009 (“the Constitution”) which reads as follows:

- 1) *There shall be in and for the Cayman Islands a Human Rights Commission (referred to as “the Commission”).*
- 2) *The Commission’s primary responsibility shall be promoting understanding and observance of human rights in the Cayman Islands.*
- 3) *The Commission shall consist of a Chairman and four other members appointed by the Governor, acting after consultation with the Premier and the Leader of the Opposition, at least two of whom shall be experienced lawyers.*
- 4) *In the exercise of their functions, the Commission and its members shall not be subject to the direction or control of any other person or authority.*
- 5) *The Commission shall replace the Human Rights Committee.*
- 6) *The Commission shall have power to –*
 - (a) *receive and investigate complaints of breaches or infringements of any right or freedom contained in the Bill of Rights or international human rights treaties that have been extended to the Cayman Islands, and investigate such possible breaches or infringements on its own initiative;*
 - (b) *provide advice to persons who consider that their rights or freedoms have been infringed;*
 - (c) *provide a forum for dealing with complaints by mediation or conciliation or by making recommendations;*
 - (d) *issue guidance on procedures for dealing with any complaints of breaches or infringements of rights and freedoms;*
 - (e) *contribute to public education about human rights;*
 - (f) *issue reports relating to human rights issues on its own initiative; and*

- (g) undertake such other functions, for the purpose of fulfilling its primary responsibility under subsection (2), as may be conferred on it by a law enacted by the Legislature.*
- 7) *The Commission shall have no power to –*
- (a) represent or provide representation to parties to litigation;*
 - (b) act in a judicial capacity or make binding determinations as to whether any right or freedom contained in the Bill of Rights or any international human rights treaty or instrument has been breached; or*
 - (c) compel any person to do anything against his or her will;*
- but any public official to which the Commission addresses a recommendation must respond in writing within a reasonable time, and such responses shall be published by the Commission unless there is a good reason to withhold publication.*
- 8) *The Commission shall make an annual report to the Legislative Assembly about its activities.*
- 9) *Further provision relating to the establishment and operation of the Commission may be made by the Legislature, but such legislation shall not derogate from any provision of this section.*
- 10) *Nothing contained in or done pursuant to this section or any law made under subsection (9) shall –*
- (a) oblige a person to refer any complaint of a breach or infringement of any right or freedom referred to in the Bill of Rights to the Commission; or*
 - (b) prevent a person from seeking redress directly from the Grand Court in relation to any breach or infringement of a right or freedom referred to in the Bill of Rights, and the fact that such person had previously sought the assistance of the Commission with respect to such breach or infringement shall not prejudice any legal action.*

For more information about the Commission please visit <http://www.humanrightscommission.ky/>.

Chapter 2: Monitoring Human Rights in Policy, Practice and Legislation

2.1 Policies on handling of Cuban Migrants

Following the Chairman's meeting with United Nations High Commissioner for Refugees ("UNHCR") representative Dr Buti Kale in 2015 and the review of a policy submitted by the Department of Immigration ("the Department") on the handling of Cuban migrants the Commission had concerns about whether the policy was actually being implemented. The Commission contacted the Department in an attempt to understand what policies were in effect and whether staff had been trained in any such policies. The Department clarified that the policy which the Commission had reviewed takes effect *only* once migrants have been brought ashore. The Department indicated that it believed a wider policy would need to be developed. It said that it had begun to review existing policies and procedures with regard to migrants and invited the Commission to collaborate with them in doing so. The Commission agreed to assist with this initiative in May 2016 but has not heard further from the Department in this regard.

The Commission alerted the Chief Officer of the Ministry of Home Affairs to specific allegations made by migrants to a Commission representative during a visit to the detention centre. It further made improvements to its own processes of accepting complaints from migrants, including the translation of its complaint forms into Spanish. The Commission recommended that the Judicial Administration provide translations of legal aid forms. It was recommended that the Department liaise with professional legal organisations to compile a list of legal representatives willing to provide legal advice pro bono or otherwise to these migrants when requested. The Department was receptive to this recommendation and agreed to do so. Whilst the Commission had not received a formal response from the Ministry of Home Affairs, several responses have been provided to the media¹.

The Commission reviewed the Legal Aid Law (2015 Revision) which came into force in October 2016 and agreed that section 14(3) appears to provide for persons detained by Immigration to obtain legal advice at public expense. This step by legislators is a positive one in meeting Cayman's international obligations with respect to processing asylum seekers.

2.2 Education Bill 2015

The Commission reviewed the draft bill and provided substantive feedback to the Ministry of Education on it.

¹ Cayman News Service, 28 June 2016, "Home affairs berates HRC for going public", Retrieved from: <https://caymannewsservice.com/2016/06/home-affairs-berates-hrc-for-going-public/>; Cayman Compass, 26 June 2016, "Sexual assault alleged at migrant center", Retrieved from: <https://www.caymancompass.com/2016/06/26/sexual-assault-alleged-at-migrant-center/>.

Whilst regarding the Bill as a generally positive development and welcoming a number of advances, including the outlawing of corporal punishment and allowing children not to attend school on recognised religious holidays, the Commission set out its concerns, comments and recommendations as they related to:

- Clause 13 - School Attendance, Admissions and Access to Education
- Clause 14(5) – Part 5 – National Curriculum and Educational Stage Assessment
- Clause 28 – Use of Reasonable Force
- Discrimination on the Grounds of Nationality

2.3 Labour Relations Bill 2015

The Commission reviewed the draft bill and submitted its comments to the Ministry of Education, Employment and Gender Affairs on 10 June 2016. The Commission’s concerns focussed on the issues of:

- s.20 - Maternity and Adoption Leave
- s.21 - Paternity and Adoption Leave
- Part III - Remuneration and Hours of Work
- s.60(5) - Victimization
- s.78 - Powers of Director, Deputy Director and labour officers and s.89 - Specific Offences
- s.78(1) - Summary of Bill in the media including Payment for Severance of Unfair Dismissal and Powers of Director, Deputy Director and labour officers

At the date of writing, the Bill has not been enacted.

2.4 Use of CCTV and video surveillance technology by the CIG

There has been a significant increase of the use of CCTV within the Islands. This brings with it the need for appropriate regulation. Any legislation or policy underlying the use of CCTV is expected to reflect the protection for individuals’ rights, freedoms, and responsibilities embedded within the Bill of Rights and the CIG’s commitment to the fundamental right to privacy under the European Convention on Human Rights (“ECHR”) [Article 8]. The CIG must ensure that the use of CCTV is subject to statutory regulation and an appropriate licensing system. Without the implementation of a comprehensive data protection law to address the diverse circumstances in which CCTV is used, policies or codes of practice on their own are generally not considered a sufficient legal framework to support the careful balance needed between human rights and the operation of CCTV. The Commission has researched and considered the following uses of CCTV by the CIG during 2016, and is currently preparing a report addressing these issues:

2.4.1 CCTV use in Lighthouse School

The Department of Education stated that *“the purpose of video surveillance and recording in schools is to enhance the safety of students, staff and others on school premises and to deter destructive acts to property”*. The Commission reviewed the overarching policy but was not satisfied that it was compatible with Section 9 of the Constitution and Article 8 of the ECHR. The Commission corresponded with the Chief Officer of the Ministry of Education regarding its review of the policy governing the use of CCTVs and video surveillance in schools. The Commission set out its concern at the CIG’s employment of CCTV at schools without data

protection legislation and policies regulating the use CCTV systems. The Commission remains of the view that without such regulations, the use of CCTV will remain unlawful under both the Constitution and the ECHR. (These comments echo previous concerns conveyed to the CIG in 2010).

2.4.2 HMCIPS's use of Drones

In a Cayman News Service ("CNS") article dated 25th September 2015, it was announced that the prison service would be using a number of Small Unmanned Aircraft ("SUAs") to disrupt individuals throwing drugs and other contraband over the perimeter fence into HMP Northward. A January 2015 report prepared by Her Majesty's Chief Inspector of Prisons titled 'UK HM Inspectorate of Prisons on HMP Northward' found that whilst *"the security of the perimeter at Northward had been enhanced ... the availability of illegal drugs, particularly marijuana, in Northward remained high."* The report further noted that *"35 percent of inmates said it was easy to get drugs in Northward"*. The Prisons Director advised that the drones would be deployed to identify persons who throw any items over the fence at HMP Northward and to patrol the perimeter of the prison generally to identify suspicious activity. The Civil Aviation Authority of the Cayman Islands ("CAACI") is the regulatory body responsible for the "safety oversight and economic regulation of the aviation industry throughout the territory"². In a press release dated 17th October 2013, the CAACI advised that there *"have already been numerous requests from individuals and organizations in the Cayman Islands intent on operating SUAs on a commercial basis. Such activity must be approved in advance by the Civil Aviation Authority in order to protect both the general public and airspace users from the potential hazard generated by otherwise uncontrolled activities within controlled airspace and congested areas"*³. The Commission's concerns relate not to the rights of those committing or planning crime but the possible invasion of privacy that the devices could pose to nearby members of the public, neighbours and landowners when the drones are deployed outside the prison.

2.4.3 RCIPS Helicopter use of CCTV

The RCIPS' website states that the Air Operations Unit operates a helicopter which is *"equipped with stabilized day and low light camera, FLIR heat tracking camera for day or night use, SX5 starburst light for ground illumination, 700 watt Skyshout public address system and video microwave downlinking."*⁴ A press release issued by the RCIPS titled 'RCIPS Helicopter' advised that *"the helicopter will enable RCIPS officers to effectively get a 'birds eye view' of what is happening in the Cayman Islands; a vantage point critical for locating people, vehicles and property, monitoring police pursuits and protecting the borders from illegal activity such as the entry of drugs and guns."*⁵ The Commission's general concerns are similar to those expressed

² <http://www.caacayman.com/portal/page/portal/caahome/aboutus/policy>

³ <http://www.caacayman.com/portal/page/portal/caahome/pressroom/2013/suauav>

⁴ <http://www.rcips.ky/portal/page/portal/polhome/theorganisation/specialist/aioperations>

⁵ <http://www.gov.ky/portal/page/portal/cighome/pressroom/archive/200709/rcipshelicopter>

above regarding the absence of a proper legal framework for data protection and, in particular in relation to the retention of images caught on the cameras.

2.5 Rehabilitation of Offenders Bill 2015

The Commission reviewed the Bill and submitted its concerns related to:

- Definitions (conviction, expungement and sentence);
- Application of the Law - s.3;
- Functions of the Board – s.5(1)(a);
- Effect of Rehabilitation in General – s.6;
- Effect of Rehabilitation in Judicial Proceedings – s.7;
- Unauthorised Disclosure of Spent Convictions – s.16;
- Periods of Rehabilitation - Schedule 1 (points 1 and 2);
- Timeframes for Juveniles - Schedule 1 (points 1 to 3);
- Queries regarding the process of an application for expungement and the board’s consideration and decision-making process in relation to the same – Schedule 1 (points 5 and 6);
- Convictions for Driving under the Influence (“DUI”) - Schedule 1 (point 10);
- Rehabilitation Periods for Absolute Discharge – Schedule 1 (point 12);
- Convictions of Persons Declared Insane – Schedule 1 (point 14); and
- Other Areas of Schedules 2 and 3 which require clarification and/or expansion.

The Commission noted that one of the key objectives of the Bill was to re-write the law in simple terms so that it could easily be understood by those most likely to be impacted by its provisions, the overwhelming majority of whom will not be legally-qualified. Whilst aware of how difficult it is to draft legislation in such terms, with regret the Commission was of the view that the Draft Bill did not succeed in this objective.

On 24 October 2016 the Bill was passed in the Legislative Assembly and became the Criminal Records (Spent Convictions) Law, 2016. The Commission notes that a number of the suggested changes and concerns identified were taken into consideration in the final version of the Law.

2.6 New Prisoner Phone System at HMP Northward

The Director of Prisons proactively sought the advice of the Commission with respect to implementing a new prisoners’ telephone system. Feedback was given to the Director which included the recommendation that a short written policy be introduced. The Director confirmed his willingness to accept such a recommendation and circulated a draft policy for the Commission’s review. The Commission determined that the draft policy appeared to be compliant with the Constitution and applicable human rights requirements, but had several minor queries which were resolved after further correspondence with the Director.

2.7 Prohibited Immigrants Bill

As previously reported the Commission received numerous complaints from persons who have been deported and/or declared prohibited immigrants in various circumstances. Most have close Caymanian

connections to persons who remain resident in the Cayman Islands and have thus alleged a breach of their right to private and family life by the CIG. The Commission continues to liaise with representatives of various CIG offices on the progress of the Immigration (Amendment) Bill 2011 which tries to create a framework giving prohibited immigrants the potential to return to the Islands after deportation. The Bill provides much needed structure by creating a schedule ascribing to various crimes a prescribed time period during which the offender is required to remain outside of the Islands before readmission can be requested. It establishes a Cabinet Advisory Committee on Prohibited Immigrants which will accept applications for readmission. This Bill now needs to be updated in certain areas; the Deputy Governor no longer has responsibility for Immigration and the Cabinet is no longer simply an advisory body. The Commission continues to encourage the CIG to enact this legislation swiftly in order to remedy the current arbitrary approach to these cases. In the absence of legislative action the Commission is drafting a report which will be finalised and released in the first quarter of 2017.

2.8 Immigration Concerns re. Former Spouses of Permanent Residency Holders

A complaint filed with the Commission raised issues regarding the immigration status of former spouses of permanent residency holders. Former spouses of Permanent Residency (PR) and Residency and Employment Rights Certificate (RERC) holders have alleged that they are not eligible to qualify in their own right due to the requirements of the current points system - many are either unemployed or do not earn enough to gain the necessary points. The Commission reviewed these concerns and noted that the Immigration Law does give the Chief Immigration Officer discretion with regard to persons applying for PR and/or the Right to be Caymanian. If this discretion is exercised in accordance with the Bill of Rights there would appear to be scope appropriately to protect the individual's rights. At the time of its own consideration in the matter, the Commission was aware that the CIG had contracted a local law firm to consider the points system. The Commission intended to review the report in order before making its final report, however the CIG has claimed that the report is legally privileged and will not be made public. The Commission will continue to monitor the changes to Cayman's immigration regime as these are announced.

2.9 General Election 2017

The Commission was copied in to correspondence about prisoners' voting rights and received a complaint about an alleged breach of lawful administrative action regarding a member of the public's right to vote.

2.9.1 Prisoner Voting Rights

The Commission received a letter of enquiry from a prisoner at HMP Northward who expressed concerns related to prisoners and their right to vote in the 2017 general election. The Constitution prescribes that any person who is serving a sentence of less than 12 months retains the right to vote. All other persons who are incarcerated do not have the right to vote. (The Commission had previously been involved in a similar complaint prior to the 2013 general elections at which time it liaised with the Elections Office and Prisons to ensure those persons who were eligible to vote were allowed to do so.) In 2016 four main issues were addressed:

1. ensuring that all prisoners who were eligible to vote were able to be registered or to update their registration information (this included educating persons about their eligibility);
2. ensuring prisoners were able to vote by mobile voting;
3. ascertaining which electoral district each prisoner should vote in (i.e. whether they should vote in the electoral district that the prison is in or whether they should vote in the electoral district where they were previously resident); and
4. considering whether there is a breach of the rights of those prohibited from voting due to serving a sentence of more than 12 months.

Following correspondence with the Supervisor of Elections and the Director of Prisons the Commission received confirmation that eligible prisoners would be able to access registration and voting facilities. This resolved the first three concerns. Regarding the fourth, the Commission conducted research on relevant case law and found there may be incompatibility with s.91 of the Constitution (the ban) and the requirements of Article 3 of Protocol 1 of the ECHR. The Commission wrote to the Supervisor of Elections and the Chairman of the Constitutional Commission identifying its concerns and requesting an opinion from the Constitutional Commission. It recommended the Elections Office take legal advice on the issue.

2.9.2 Alleged breach of Lawful Administrative Action

The complainant alleged she has been “*illegally denied the right to vote in the 2013 and 2017 General Elections, which is against the Cayman Islands Constitution Order (2009) Section 91 – Disqualification of electors, the Declaration of Human Rights Article 21 – Right to Vote, and the Interpretation Act of 1978.*” [Sic.] Following a review of the relevant constitutional and legislative provisions it appeared to the Commission that s.90 of the Constitution (which requires citizens over the age of 18 years to be resident in the Islands no less than two years out of the four years immediately preceding the date of registration) may be incompatible with the requirements of the ECHR. The Commission found that whilst the case law demonstrated an allowance (due to the margin of appreciation) for restrictions on voter registration eligibility where residency is not maintained, all cases examined have a far shorter or immediate re-institution of eligibility once the individual returns to the jurisdiction. In accordance with the responsibilities of the Constitutional Commission, the Commission requested advice on the matter.

2.10 Disabilities (Solomon Webster) Bill, 2016

The Commission discussed the draft Disabilities (Solomon Webster) Bill, 2016 which was forwarded by the Cabinet Office Policy Coordination Unit on behalf of the Disability Policy Inter-Ministerial Implementation Task Force. The Commission considered the Bill closely and agreed that it was generally a positive development for the Cayman Islands. Whilst the Commission did not submit formal comments it identified several concerns which it suggested could be mitigated by appropriate regulations. It will monitor the implementation of this legislation over time.

2.11 Draft RCIPS Appeals Policy

As the result of a complaint, the Commission made a recommendation to the Deputy Governor to formalise and implement written policies and procedures for handling appeals under the current Police Law, as well as the other appeals which the Deputy Governor's Office or the Ministry of Home Affairs processes. A draft policy was sent to the Commission by the Attorney General's Chambers on behalf of the Deputy Governor to which the Commission provided preliminary feedback. The Commission indicated its desire to review the final version of the policy once completed.

2.12 Marriage Bill 2016

The Commission reviewed the Bill submitted by the Office of the Deputy Governor for consideration. Save for the Commission's previous concerns about same-sex unions and equality, it had no further feedback.

Chapter 3: Engagement with Public Officials, Civil Society and the Media

3.1 Opening of Police Custody Suites

As previously reported the Chairman and Manager met with HM Prisons Inspectorate team on 12 January 2015 to discuss a number of issues pertaining to the human rights of prisoners, including the use of the existing police cells and the development of new modular ones. The Commission continued to liaise with the Ministry of Home Affairs on this topic and was pleased to attend the formal opening of the new Police Custody Suites on Fairbanks Road on 30 March 2016.

The Acting Chairman made a brief statement at the ceremony on behalf of the Commission, where he applauded the CIG's commitment, via the Commissioner of Police and the Chief Officer of the Ministry of Home Affairs, to fulfilling its obligations under the ECHR in the establishment of this facility. The new facility now provides holding cells which were specifically designed and constructed in keeping with the United Kingdom's human rights and detainee safety guidelines. As a result, the cells are both safer and more secure for both the detainees and the public at large. They also provide for the required separation of male, female and juvenile prisoners. This is a significant achievement.

3.2 Disabilities Committee Presentation

On 4 February 2016 the Commission had the benefit of receiving a presentation from the Disabilities Committee on the then proposed Disabilities Bill. The Commission and the Disabilities Committee were able to discuss both the content of the Bill and the work of the Committee.

3.3 Cayman Islands Law Review Commission Discussion Paper on Bullying

The Commission reviewed a discussion paper about bullying in schools compiled by the Cayman Islands Law Reform Commission ("CILRC"). The paper was very detailed and well-researched. The Commission discussed the implications of the proposals in the paper extensively. In particular there were concerns about the potential for perpetrators of bullying to be expelled as a result of their behaviour, whether this could breach a child's right to education and whether or not schools should be taking responsibility for matters which were more properly the purview of the courts/police, particularly with regard to punishment of perpetrators. The paper also queried how the Commission itself could be involved in hearing cases from private schools. The Commission agreed that providing guidance for schools on how to deal with the issue was important and that this should focus on the victim and bully and involve parents of both children. The Commission submitted a formal response for the CILRC which included its detailed feedback on the paper.

3.4 LGBT+ Conference

The Commission noted the "Queering Paradigms" conference that was held at the Chamber of Commerce on 11 and 12 June 2016 and attended by a member of the Commission. The conference was informative and highlighted the stigma and discrimination that the LGBT+ community are faced with on a regular basis. The Commission also discussed the call from multiple MLAs the week prior to the

conference for a referendum on the issue of same sex marriage. Having clearly articulated and publicised its views on this matter, it was agreed that no further statement was required from the Commission.

3.5 Caribbean Regional Workshop on Alternatives to Detention

An invitation was extended to the Commission for a workshop which was facilitated by the International Detention Coalition, the University of the West Indies and the United Nations Refugee Agency (UNHCR) to discuss “Alternatives to Immigration Detention.” The workshop was held on 27 – 29 September 2016 in Port of Spain, Trinidad and Tobago. While initially it was thought that representatives from the Commission would be able to attend, due to conflicting schedules, no members were able to do so. The Commission made its apologies to the facilitators and asked to be kept informed of any future events.

3.6 National Older Persons Policy Stakeholder Workshop

The Ministry of Community Affairs, Youth and Sports in conjunction with the Department of Children and Family Services facilitated a workshop on policy development for a National Older Person’s Policy (“the NOPP”) on 1 July 2016. The Manager attended on behalf of the Commission. The NOPP is intended to promote the welfare of older persons and to provide strategic guidance in the delivery of services for meeting their needs. Participants sought to identify necessary objectives, actions and other policy-related goals to further develop the NOPP. A follow-up meeting was held on 5 October 2016 however, due to conflicting schedules the Manager was unable to attend. The policy was finalised and made public on 1 November 2016. The Commission looks forward to advancements in this important area.

3.7 Overseas Territories Human Rights Conference

The Chairman and Manager attended the FCO Overseas Territories (“OT”) Directorate’s first Overseas Territories Human Rights Conference 2016 at Lancaster House in London on 12-14 September.

The broad aims of the conference were to:

- Explore the key priorities, opportunities and challenges faced by OT Human Rights Commissions (or equivalent organisations) in the execution of their responsibilities as well as their role within wider OT society;
- Promote shared understanding of UK and OT shared international human rights obligations, how compliance is monitored by international organisations e.g. UN treaty body system etc., and ways in which OT HRCs can engage in the process;
- Examine critically topical human rights issues e.g. children’s rights etc. and the role OT HRCs can play in either championing and/or developing public awareness and engagement;
- Explore ways to enhance OT HRC engagement within and across the UK Realm, with the UK Government and international organisations; and
- Identify how the UK Government could best support the sustainable development of OT HRC knowledge and capabilities, so that these organisations can continue to play an effective role within their communities in the protection and promotion of human rights.

The conference proved to be very well organised and informative and the Commission's representatives were able to discuss important human rights issues both formally and informally with leading experts, other commissions and the UK government.

Following that conference an invitation was extended by the FCO to meet with the UK minister for the Overseas Territories and Human Rights, Baroness Anelay. On 4 October the Chairman and Commission Member Ben Tonner met with Baroness Anelay, her staff and Her Excellency the Governor and had informative, productive and detailed discussions on a range of human rights issues.

3.8 ICTA Regulations

The Commission was requested by a member of the media to provide a statement on the Information and Communications Technology Authority ("ICTA") (Amendment) Regulations 2016. The Commission had previously published a report in 2013 setting out its concerns related to the Interception of Communications noting four main concerns at the time including:

1. there was no judicial oversight in the process of the issuance of telecommunication interception warrants;
2. based on the National Security Council's ("the NSC") constitutional mandate the Governor should be consulting with the NSC as a matter of course on any applications for an intercept warrant on matters relating to internal security;
3. members had not been appointed to serve on the Audit Committee; and
4. the Law appeared to contemplate the use of warrants in wider circumstances than as indicated by officials.

Having reviewed the 2016 proposed amendments, the Commission offered the following comments (by reference to the concerns documented in 2013 set out above):

1. the amendments do not address this and the concern of the Commission remains;
2. whilst the amendments do not change this specifically they do strengthen the oversight by requiring that the Audit Committee present written reports to the NSC no later than 30 days after an audit is complete (once every six months);
3. the amendments cannot address the appointment, or lack thereof, of members to the Audit Committee. The lack of a fully constituted Audit Committee continues to be a significant concern of the Commission; and,
4. The amendments do address the concern by:
 - a. limiting the grounds on which a warrant may be issued – it now reads "The Governor may only issue a warrant..."; and
 - b. defining "serious crime" (a ground on which a warrant may be issued).

In addition the Commission recognised other safeguards that were included in the 2016 proposed amendments including the:

1. provision for the destruction of any communication intercepted as soon as no longer needed for the purposes allowed under the regulations;

2. provision for disclosure to ensure the fairness of a criminal prosecution or in a case where a judge or magistrate is satisfied it is necessary in the interests of justice; and
3. prohibition of unauthorised disclosures (which becomes an offence).

The Commission was encouraged to see the proposed amendments but continued to urge the Governor to appoint members to the Audit Committee as a matter of priority.

3.9 RCIPS Taser Policy

The Commission was requested by a member of the media to issue a statement on the use of Tasers by the RCIPS following circulation of footage on social media showing an incident in which one was used on a member of the public. It was not appropriate for the Commission to comment on the actual incident but a statement was given in general terms about the use of force by police officers. The use of force by RCIPS officers is dealt with under sections 2 (right to life) and 5 (personal liberty) of the Bill of Rights. In addition provisions are made under s.6 (treatment of prisoners) for their rights and treatment of persons detained.

3.10 DVDL Electronic Vehicle Licence System

The Commission was contacted by a member of the media for comment on the Department of Vehicle and Drivers Licences (“the DVDL”) new Electronic Vehicle Licence system. In turn the Commission contacted the DVDL for more detailed information regarding the system. The DVDL responded promptly and in detail. Following a review of the information provided, the Commission was satisfied that the new system does not currently present any breach of individuals’ right to privacy. It would appear that the concerns of the general public about being ‘tracked’ are not well founded – the Commission has been explicitly informed that this is not possible. Nevertheless, the Commission acknowledged more public education on the operation of the system could be useful and this was communicated to the DVDL. The Commission’s concerns about the absence of proper data protection legislation (above) affect this issue also. Without proper legislation any collection, retention and processing for data through this system may be unlawful.

3.11 Religion and the application for Permanent Residency and Caymanian Status

The Commission received a request from a member of the media for a generic comment about consideration of religion by the Permanent Residency and Caymanian Status Board (“the Board”) when dealing with applications for status. The Commission replied that the right to freedom of conscience and religion is enshrined in the Constitution as a qualified right which means that the right can only be restricted or taken away by the government in certain broadly defined circumstances. The Commission noted that individuals have the freedom to hold particular beliefs and practice whatever religion they choose or none at all. This choice must not be used against individuals (or in their favour) by the CIG in (amongst other things) the consideration of any type of application for Caymanian Status or Permanent Residency. The Commission reiterated that to treat someone differently when considering Status or Permanent Residence based on their religion would be discrimination as defined in s.16 of the Constitution and, being irrational, would also be a breach of s.19 of the Constitution (Lawful administrative action). The Commission made it clear that, even to enquire about individuals’ private

religious views, is contrary to the right to a private and family life provided by s.9 of the Constitution and that such questions should form no part of any application for Status or Permanent Residency.

3.12 Cuban Migrants

In response to a request from a member of the media, the Commission made a statement on the issues which surround Cuban migrants who enter our jurisdictional waters. In 2013, following numerous meetings with senior Government officials and consideration of relevant documents including policies, procedures, and the Memorandum of Understanding signed by the CIG and the Cuban Government, the Commission released a report on the subject. Since the release of this report the Commission has continued to monitor the situation and has, on numerous occasions, communicated (and met) with senior Government officials. The Commission has repeatedly urged the development of policies which are compliant with not only the Bill of Rights but also International Human Rights Treaties extended to the Cayman Islands. The Commission has also communicated (and met) with representatives of the UNHCR and the Cayman Islands Red Cross. Representatives from the Commission have repeatedly visited the Immigration Detention Centre and other locations where migrants are being housed. The Commission understands this is an emotive issue for many people; however, Cayman's goal must be to ensure that our legal obligations are upheld and migrants are treated fairly and humanely.

On that basis, the Commission has expressed its concerns to the CIG that the Cayman Islands should not act in a way that facilitates or encourages illegal migration or human trafficking: actions which in any way encourage illegal migration are unlawful and can lead, indirectly, to deaths. It has articulated its view (shared by the UNHCR) that immediate reconsideration should be given to the process currently in place which fails to ensure that the Cayman Islands is deterring and preventing human trafficking. Only by the formal processing of migrants in controlled circumstances can the Cayman Islands ensure it is not a party to human trafficking. This proper investigation of potential people trafficking cannot be carried out during interceptions at sea. All illegal migrants should be processed ashore. They should not be allowed to continue their journeys unless their vessels are seaworthy, and fitted with the navigation, communication and safety equipment and proper provisions necessary for a multi-day offshore passage.

Having been informed by the Attorney General's Chambers that the Cayman Islands is not a signatory to the United Nations Convention against Transnational Organized Crime ("the Convention") or the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children ("the Protocol") (which supplements the Convention), the Commission asked whether the Government had any intention of requesting their extension, as it is clear to the Commission that the goals articulated in the Convention and Protocol are regarded as important throughout the global community. On 1 July 2015 the Ministry of Home Affairs indicated that it was assessing the feasibility of such an extension. The Commission has not heard back from them since. The Commission continues to monitor the situation and work with the CIG, the UNHCR, and other relevant organisations to ensure the protection of human rights for those arriving in the Cayman Islands.

Chapter 4: Human Rights Education, Events and Presentations

4.1 Mental Health Booklet

As reported in the Commission's 2015 Annual Report, a review of the World Health Organization Assessment Instrument for Mental Health Systems Report, released by the Ministry of Health, was conducted and a statement made. The Commission liaised with the Chairman of the Mental Health Commission ("MHC") to determine how the Commission could best support its efforts. It was agreed that the Commission would create an educational booklet which would detail those rights most relevant to mental healthcare professionals and provide information on best human rights practices whilst treating these vulnerable individuals. The content of the draft booklet was reviewed and discussed extensively by the Commission throughout 2016, and the layout and design of the booklet was coordinated by Government Information Services ("GIS"). The Commission printed 50 copies of the booklet which was presented by the Chairman of the Commission to the Chairman of the MHC, and the project was acknowledged in a press release recognising World Mental Health Day – 10 October 2016. The booklet is also available on the Commission's website as an e-book and a download.

4.2 Human Rights Promotional Series

The Commission undertook to promote a range of internationally observed dates relevant to human rights in the Cayman Islands throughout 2016. Each date was recognised in a press release, many of which attracted significant interest and dialogue within the community. The Commission looks forward to continuing this recognition of these and other dates in 2017.

4.2.1 Honouring Women's History Month

- In March 2016 the Commission joined other organisations in Cayman and countries around the world in celebrating women and women's history. The history of women and their roles in society, and the issues encountered by women today, are important to acknowledge. Equally, examination of the issues previously and currently faced by women helps ensure that systemic injustices or prejudices are not perpetuated. The right to non-discrimination on the basis of gender is protected in s.16 of the Bill of Rights. International Women's Day ("IWD") has been celebrated since the early 1900s as a day dedicated to recognising and supporting women, and was first officially recognised by the United Nations in 1975. It was celebrated on 8 March with the theme for 2016 being *Planet 50-50 by 2030: Step It Up for Gender Equality*.

Set by the UN, the theme encouraged governments to make practical national commitments (through laws and policies) to close the gender equality gap, including: ensuring complete free and equitable primary and secondary education for boys and girls; ensuring access to early childhood development and care for all children; eliminating all forms of violence that may be institutional or take place in our homes and communities such as domestic violence and sexual abuse; and eliminating exploitative practices such as human trafficking and early or forced marriage.

Significantly, this year the Cayman Islands celebrated with the announcement that the CIG's long-standing request to have the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) extended to the Cayman Islands had been granted by the United Kingdom.

4.2.2 Earth Day 2016

A press release celebrating Earth Day 2016 noted that the Cayman Islands can take pride at being in the notable position of having a right to environmental protection enshrined in its Constitution – something present in less than half of other national constitutions. The right to protection of the environment is secured in s. 18 of the Bill of Rights. The 2016 theme was *Trees for the Earth* and encouraged individuals, groups and states to contribute to the goal of planting 7.8 billion trees over the next 5 years in order to help reduce carbon dioxide (CO₂) and other harmful pollutants in the earth's atmosphere for cleaner breathing air, and to support communities by making them more economically and environmentally sustainable.

4.2.3 World Day for Cultural Diversity for Dialogue and Development

World Day for Cultural Diversity for Dialogue and Development, a joint initiative by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Alliance of Civilizations (UNAOC), was celebrated in May. This occasion was intended to underline the importance of increasing understanding and acceptance of cultures other than our own. This year organisations celebrating World Day for Cultural Diversity asked us to '*Do One Thing for Diversity and Inclusion*' by taking concrete action to support cultural plurality. According to our 2010 Census Report, Cayman presently boasts citizens from 135 different countries and territories as its residents and the presence of so many residents from around the world allows us to embrace and learn from different and diverse cultures, improve our understanding of an increasingly globalised world and thereby enhance our own society. S.1 of our Bill of Rights reflects this, highlighting the importance of balancing the distinct culture of Cayman with "the rule of law and the democratic values of human dignity, equality and freedom."

4.2.4 Banned Books Week

Each year the last week in September is recognised as "World Banned Books Week" by the American Libraries Association. The week recognises freedom of expression and celebrates reading by bringing awareness to the issue of censorship as it relates to books. In the Cayman Islands, such censorship is found in the Prohibited Publications Order (under the Penal Code) which first came into effect in the Cayman Islands in 1977. Prohibiting the importation of publications and periodicals, the Prohibited Publications Order (1998 Revision) lists over 130 items which are banned from being brought into the Islands. Many of these publications are political, including materials from the USA, former USSR, Canada, the UK, North Korea and China. Some are religious in nature, for example all publications of the Ethiopian Zion Coptic Church, a sect of Rastafarianism. Also included are some adult publications and books dealing

with the occult and magic. Whilst no publications by local authors appear on the list, the Commission considers that the Prohibited Publications Order continues to set a dangerous precedent for censorship of cultural, political and religious expression. The Commission noted that the Freedom of Expression under the Bill of Rights includes “freedom to hold opinions and to receive and impart ideas and information without interference”, the censorship of publications, in this case without any explanation or apparent justification, is quite contrary to those rights.

4.2.5 World Oceans Day

The United Nations celebrated World Oceans Day 2016 on 8 June. Adopted in the General Assembly on 5 December 2008, the goal of World Oceans Day is to “raise awareness about the crucial role the ocean plays in our lives and the important ways people can help to protect it”. This year’s theme, *Healthy Oceans, Healthy Planet*, was chosen to lend support to the UN’s focus on sustainability and protecting the oceans’ natural resources. The protection and sustainability of the sea and marine life have always been of significant importance to the Cayman Islands due to our strong maritime history and seafaring heritage, and remains vital to ensuring livelihoods on which families and the local tourism economy depend. The Commission issued a press release in support of World Oceans Day and noted the importance of s.18 of the Bill of Rights protecting the environment which places an obligation on the CIG to consider the environmental impacts that may result from decisions or actions and to have regard to the need to foster and protect an environment that is not harmful to the health or well-being of present and future generations. The Commission applauded the Government on its efforts to promote the sustainable development of Cayman’s marine environment and encouraged it to continue to comply with its constitutional duty to protect our natural resources.

4.2.6 World Mental Health Day

The 2017 theme for World Mental Health Day, selected by the World Federation for Mental Health (the “WFMH”), was *Psychological First Aid*. Psychological first aid is described as the provision of “*a humane, supportive and practical response to people suffering exposure to serious stressors and who may need support. It is an approach to help people recover by responding to their basic needs and showing them concern and care, in a way that respects their wishes, culture, dignity and capabilities.*” The Commission issued a press release noting that many mental health issues are viewed with stigma and discrimination, often due to a lack of education and understanding. As set out above, with guidance from the Chairman of the MHC, the Commission published a booklet which details the rights most relevant to mental health professionals and provides information on best practices in the treatment of individuals dealing with mental health issues.

4.3 Support for LGBT+ Community

The Commission continues to actively support equal rights for individuals in the Cayman Islands and this includes the LGBT+ community.

4.3.1 Orlando Shootings

In response to press enquiries, the Commission issued a statement in the wake of the Orlando shootings. The Commission expressed its shock and sadness and sent their condolences to the victims, their families and all others affected by the terrible events. The Commission noted that throughout the world members of the LGBT+ community are too often subject to discrimination, abuse, persecution and violence simply because of their sexual orientation. The Commission agreed with Theresa May (now the British Prime Minister), when she condemned the attacks as “utterly evil”, noting that “*It is clear that such an attack has its roots in a twisted ideology which counts homophobia as a cornerstone of its warped world view.*” The Commission reiterated that the purveyors of such ugly bigotry, hate and homophobia have no place in civilised society and noted that it continues to stand side by side with the members of our lesbian, gay, bisexual and transgender communities, both in Cayman and around the world.

4.3.2 European Law, Human Rights and Same Sex Unions

In June 2016 the Commission read commentary in the local press and reports of debate in the Legislative Assembly dealing, again, with the issue of equal rights for LGBT+ individuals and in particular regarding same-sex unions. Much of what was said was not novel and the Commission’s position on these topics was already well known at this point. The Commission did however, feel it necessary to make a statement correcting what appeared to be a widely-held misapprehension of the current state of the law in regard to same-sex unions: a perception that, as a result of the 9 June 2016 decision of the European Court of Human Rights (“the Court”) in *Chapin and Charpentier v France* (application no. 40183/07), the Court’s position on same-sex unions had changed. The Commission clarified that the judgment in *Chapin* had not changed the law on this point which remains as stated by the Commission in its press release of 27 July 2015 dealing with the case of *Oliari*.

<http://www.humanrightscommission.ky/portal/pls/portal/docs/1/12320915.PDF>

As part of its Constitutional mandate to contribute to public education, the Commission noted that when interpreting legal rulings it is important to read the materials issued by the Court and not merely rely on press reports; as not all reporting is unbiased and not all journalists commenting on legal matters are legally qualified. The Commission clarified again that states are required, by law, to make provision for same-sex couples to have equal rights. The simplest way to achieve this is to allow those in such relationships to have them legally recognised (although this recognition does not have to be by ‘marriage’). The Commission urged CIG to make provision for legal recognition of same-sex relationships and made it clear that any suggestion that Cayman’s current legal framework is sufficient to survive a legal challenge under the ECHR on same-sex unions is wrong as a matter of law.

4.4 HRC Website Launch

The Commission’s redeveloped website went live on 30 September 2016 and is now accessible to the general public. The website features numerous improvements including better organisation of publications, and extensive links to local, regional and international resources. Education is a key

component of the work of the Commission and the redeveloped website now allows this work to be shared with the public more easily.

4.5 Human Rights Training for Prison Officers/Booklet

The Commission received a request from the training officer at HMP Northward to conduct a training session with prison officers on human rights matters specifically relevant to the prison. The Commission has drafted a booklet titled 'Human Rights in Places of Detention' in preparation for an upcoming human rights training with prison officers (date to be determined). Copies will be printed for officers and an eBook and pdf version placed on the Commission's website.

4.6 Constitution Accessibility for the Visually Impaired

The Commission has partnered with the Constitutional Commission to produce a version of the Constitution which will be accessible to persons with visual impairments that have prevented them from accessing the standard text version. The project is currently in the preliminary stages but the Commission hopes to have it completed in the near future. The project was announced on 3 December, which is celebrated annually as International Day of Persons with Disabilities. Once completed the audio recordings will be available on the Commission's website. Both Commissions are currently also exploring the possibility of obtaining braille versions of the Constitution.

Chapter 5: Alleged Breaches or Infringements of Human Rights

6 November 2013 marked the implementation of the final clauses of the Bill of Rights allowing any individual to bring allegations of breaches or infringements of the Bill of Rights in our local courts. (As was previously the case, individuals may still directly petition the European Court of Human Rights alleging breaches of the obligations under the European Convention on Human Rights.)

As mandated under the Constitution, the Human Rights Commission (“the HRC”) continues to receive and investigate complaints that decisions or actions of public officials have breached or infringed the Bill of Rights or that local legislation violates their human rights. The Commission receives 1) complaints of breaches or infringements of any section of the Bill of Rights; 2) complaints of breaches or infringements of common law and statutory human rights and freedoms; and 3) complaints that any international human rights treaty extended to the Cayman Island has been breached or infringed.

In the Cayman Islands Constitutional human rights only have a vertical application. ‘Vertical application’ of human rights means rights will apply vertically so that they can be enforced by a citizen against the Government only – but not against other private individuals or companies.

It is important to note that the Commission will only accept complaints of alleged breaches of the Bill of Rights, Freedoms and Responsibilities which have occurred after 6 November 2012. This may be a one-off event that has occurred after 6 November 2012 or may be a continuing infringement of a right. In all cases, unless there is clear evidence that the alleged infringement is continuing, the HRC will not accept a complaint in relation to an alleged infringement that has taken place more than one (1) year prior to the date of the complaint.

During the reporting year, the Commission received forty-seven complaints from members of the public alleging breaches by public officials of their human rights. Of those cases, seven remain open at the end of this reporting year and forty were closed, with an additional fourteen cases from 2015 closed and one case from 2013 closed. There are a further five cases remaining open from 2015, and two cases remaining open from the 2014 reporting year. In respect of all the cases remaining open at the end of 2016 the Commission is either currently investigating possible breaches or in correspondence with the relevant public authorities.

Additional statistical information relating to the complaints processed by the Commission within this reporting year is as follows:

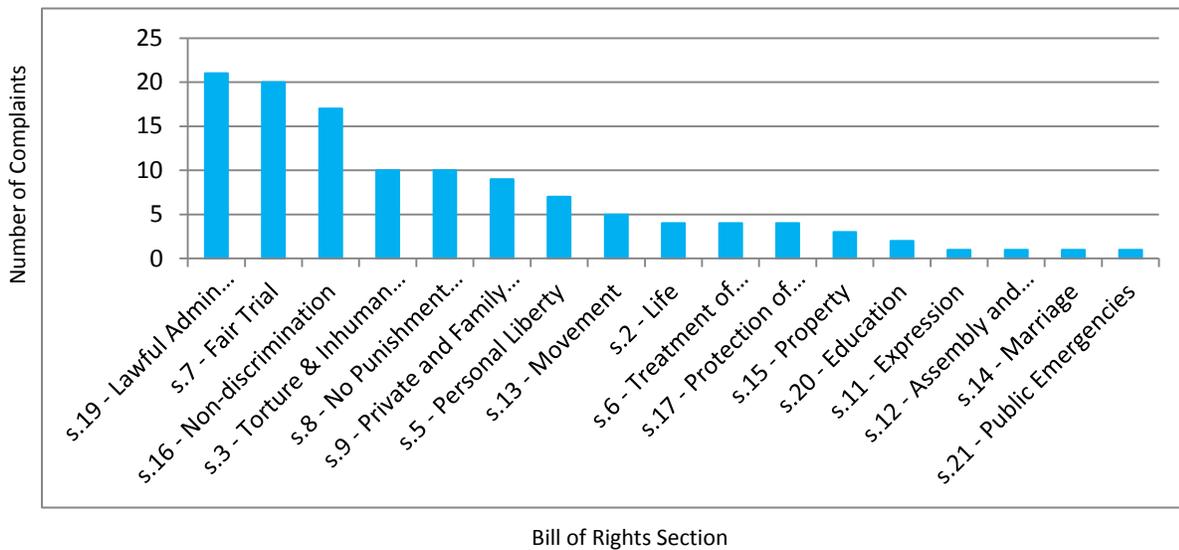
5.1 Number of complaints received by alleged rights breached in 2016

The chart and graph below illustrate the complaints received categorised by sections of the Bill of Rights where breaches are alleged by complainants to have taken place. Note that s.1 – Guarantee of Rights, Freedoms and Responsibilities has not been included as any possible breach would automatically engage this section. The chart and graph below only represent the views of complainants regarding

which of their rights may have been breached; it does not represent actual breaches (NB: complainants may allege breaches of multiple rights).

Bill of Rights Section	Total	Percentage
Lawful Administrative Action (s.19)	21	18%
Fair Trial (s.7)	20	17%
Non-discrimination (s.16)	17	14%
Torture & Inhuman Treatment (s.3)	10	8%
No Punishment without Law (s.8)	10	8%
Private and Family Life (s.9)	9	8%
Personal Liberty (s.5)	7	6%
Movement (s.13)	5	4%
Life (s.2)	4	3%
Treatment of Prisoners (s.6)	4	3%
Protection of Children (s.17)	4	3%
Property (s.15)	3	3%
Education (s.20)	2	2%
Expression (s.11)	1	1%
Assembly and Association (s.12)	1	1%
Marriage (s.14)	1	1%
Public Emergencies (s.21)	1	1%
TOTAL	120	100%

Complaints Received by Alleged Breaches



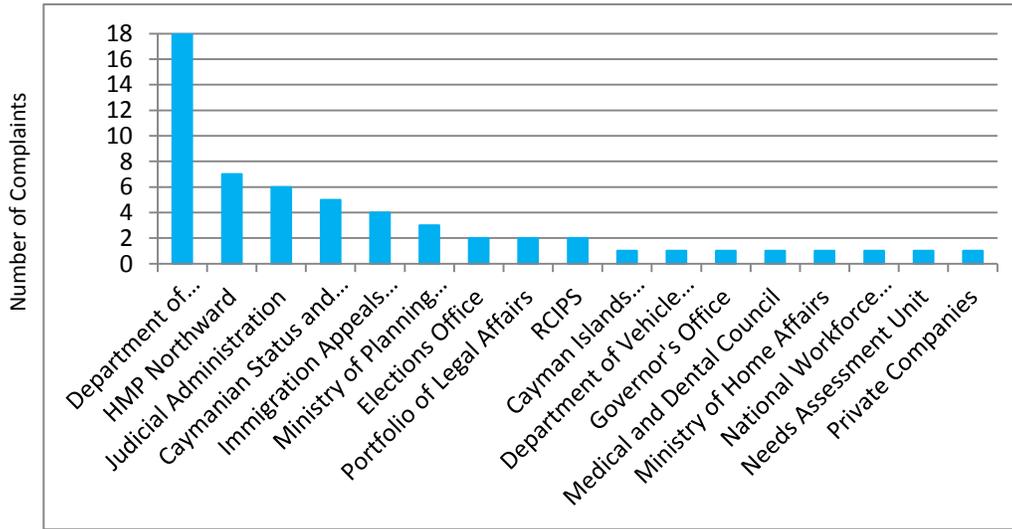
5.2 Number of complaints by respondent entity

The chart and graphs below illustrate the public authorities against which formal complaints have been made to the Commission in 2016. They also summarise instances where possible breaches have been deemed to have taken place by the Commission, within the context of a specific complaint, based on the evidence presented. In some cases investigations into possible breaches are still ongoing.

#	Public Entity*	Received	Recommendations	Possible Breach
1	Department of Immigration	18	3	
2	HMP Northward	7	1	1
3	Judicial Administration	6	1	
4	Caymanian Status and Permanent Residency Board	5	1	
5	Immigration Appeals Tribunal	4		
6	Ministry of Planning Lands, Agriculture, Housing and Infrastructure	3		
7	Elections Office	2		
8	Portfolio of Legal Affairs	2		
9	RCIPS	2		
10	Cayman Islands Government	1		
11	Department of Vehicle and Drivers' Licensing	1		
12	Governor's Office	1		
13	Medical and Dental Council	1		
14	Ministry of Home Affairs	1	1	
15	National Workforce Development Agency	1		
16	Needs Assessment Unit	1		
17	Private Companies	1		
	TOTAL	57	7	1

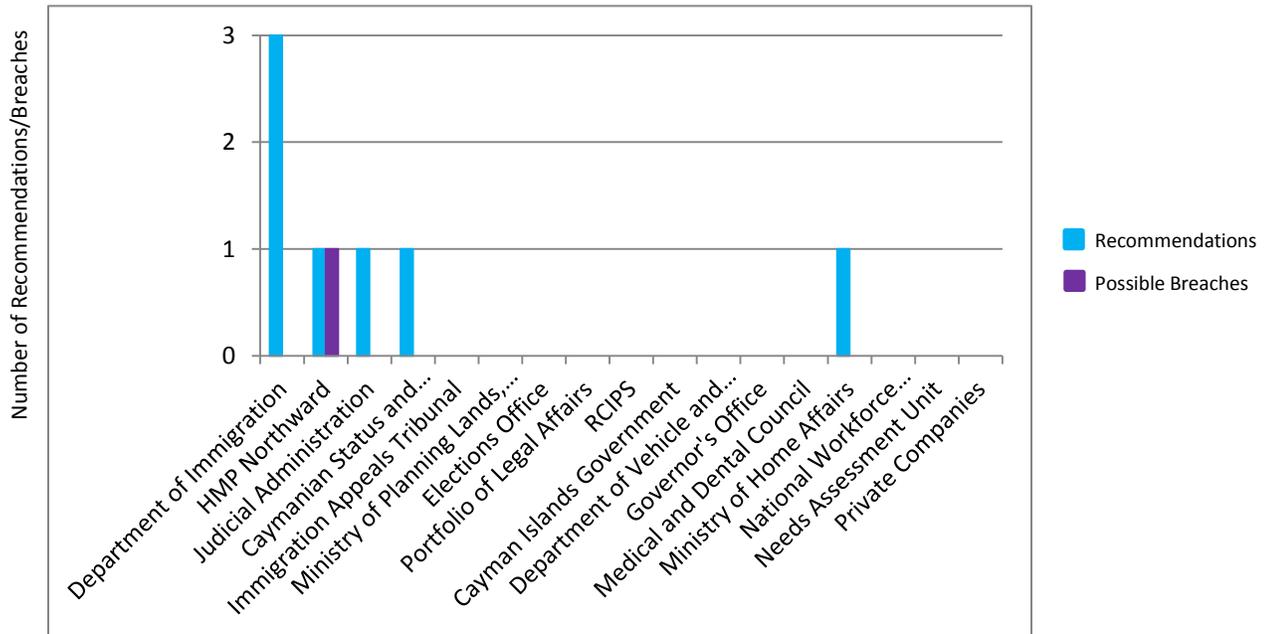
****Whilst the Commission does not accept complaints on incidents that have taken place over one year prior to the complaint being filed, except in cases on ongoing breaches, complaints reflected in this section may have been filed against public officials who may or may not still be in office at the time the complaint is filed.***

Number of complaints received by respondent entity



Names of Respondent Entities (Public Authorities)

Number of recommendations made and possible breaches identified by respondent entity



Names of Respondent Entities (Public Authorities)

N.B.: In maintaining the confidentiality of the complainants, detailed information pertaining to complaints is not published by the Human Rights Commission.

Chapter 6: Acknowledgements

The Commission has worked hard over 2016 to promote human rights in the Islands; however, it would have been impossible for it to have carried out its work without the assistance of many members of the public, private entities and government employees. There is not space here to list all those who the Commission would wish to thank, however, we do wish to acknowledge the following individuals, companies and public authorities, who over the past year have provided particular assistance to our endeavours to promote compliance with the Bill of Rights:

- Her Majesty's Prison Service
 - Neil Lavis, Director of Prisons
 - Marlon Hodgson, Unit Manager / Security and Intelligence Unit
 - John Miller, Senior Prisoner Officer
- Cayman Islands Department of Immigration
 - Bruce Smith, Acting Chief Immigration Officer
 - Marco Thompson, Immigration Officer II
 - Brian Ebanks, Senior Immigration Officer
 - Roseta Moore, Customer Liaison Supervisor
 - Emily Hurlston-Hosein, Administrative Assistant
- Government Information Services
 - Kara Coe, Graphic Designer
 - Martha Connolly, Graphic Designer
- National Workforce Development Agency
 - Lois Kellyman, Manager Employment Service
- Mourant Ozannes
 - Simon Dickson, Partner
 - James Angus, Associate
 - Angelique Howell, Articled Clerk
- Etienne Blake Attorneys-at-Law
 - Vaughan Carter, Partner
 - Sara Collins, Consultant
- Department of Community Rehabilitation
 - Juan Ruiz, Community Service Coordinator
- Caymanian Status and Permanent Residency Board
 - Susan Dixon, Secretary
- Needs Assessment Unit
 - Matthew Hylton, Deputy Director
- Immigration Appeals Tribunal
 - Jonina Frederick, Coordinator for Immigration Appeals Tribunal
 - Sheneen Powell, Secretary to Immigration Appeals Tribunal
 - Trisha Cuffy, Secretary to Cabinet Office

Each of the Commission members are employed by private entities in the Islands and particular thanks should go to each of them for allowing us to take what is sometimes significant time away from our jobs to perform our Constitutional roles. Without the support of Campbells, Samson & McGrath, Cayman Hospice Care, GreenTech Environmental Limited and the Savannah United Church we would not have been able to dedicate the time necessary to this Commission.

We are also grateful to all those in the media who have taken the time to engage with us, challenge us, seek our views (on or off record) and report on the Commission's initiatives and human rights generally. The Commission may not always agree with what is written in the press or said on air but it remains a truism that the vital role that a free and independent press plays in protecting human rights in a democracy cannot be overstated.

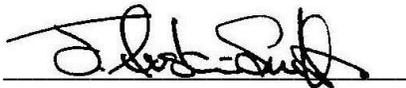
Finally, the Commission would like to reserve its greatest thanks to the Manager of the Commissions Secretariat, Deborah Bodden and to her team, Lise Hurlstone and Sheila Alvarez for their exceptional support and assistance in 2016. They generally receive no public acknowledgment for the outstanding work that they do on behalf of the Commission but it is no exaggeration to say that without their dedication and hard work it would simply not be possible for the Human Rights Commission to carry out its Constitutional functions.

Chapter 7: Moving Forward

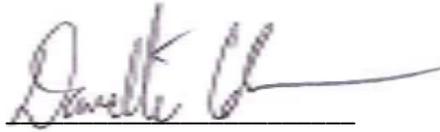
In 2017 the Commission intends on continuing to focus on education and awareness of human rights in the Cayman Islands. Specifically the Commission intends on focusing its efforts on human rights issues related to immigration, lawful administrative action, disabilities, elections, protection of children, and bullying.

The HRC encourages the public to visit our website (www.humanrightscommission.ky), join us on Facebook at www.facebook.com/cihrc, or email us at info@humanrightscommission.ky to learn more or get involved in promoting, protecting, and preserving human rights in the Cayman Islands.

Dated this 23rd day of March 2017.



James Austin-Smith (Chairman)



Danielle Coleman



Ben Tonner



Lisa-Ann Hurlston-McKenzie



Reverend Donovan Myers

2nd Floor, Artemis House, 37 Fort Street, George Town, Grand Cayman
P.O. Box 391 | Grand Cayman KY1-1106 | CAYMAN ISLANDS
Telephone: 1.345.244.3685 Facsimile: 1.345.945.8649
Website: www.humanrightscommission.ky
E-mail: info@humanrightscommission.ky
Facebook: www.facebook.com/cihrc

Appendices

Appendix 1: Human Rights Commission Members

Mr. James Austin-Smith (Chairman)

James Austin-Smith graduated with an honours degree in International Politics in 1997. He completed the postgraduate law conversion course and was called to the Bar of England and Wales by Inner Temple in 1999. He practised at the Bar in London until 2004 when he was admitted in Cayman. He specialises in commercial litigation and dispute resolution. He is a former member of the Cayman Islands Human Rights Committee and is well established within the community. Effective 1 April 2014 James was appointed as a member until 1 January 2015 after which time he assumed the role as Chairman for a three year period.

Chelsea Frazier Rivers

Chelsea Frazier Rivers is the voice behind The Blue Spot – a campaign to bring awareness to the disabled in Cayman by “calling out” those who take advantage and park in the handicapped “blue spot”. She has served as chairperson, member and advisor to several committees and associations in her quest to make a difference in the lives of Cayman's children and those less fortunate. She is the author of "Hurricane Ivan: The Experience", runs a horse riding company in WB with her husband and works full-time a marketing manager for an international law firm in Grand Cayman. She is married to a Caymanian and possesses the Right to be Caymanian. Chelsea served as a member from 1 April 2014 to 31 March 2016.

Reverend Donovan Myers

Reverend Donovan Myers is the Minister at the John Gray Memorial Church. He has spent over 20 years serving the church and working on education and community development projects, focusing specifically on challenging issues such as drug abuse, HIV/AIDS, violent crimes and homelessness. Donovan has a personal interest in human rights and justice. In addition to his theological studies, Reverend Myers pursued a Master's Degree in Clinical Counselling and post-graduate certification in Education. He has taught ethics classes at Cayman Prep & High School in Grand Cayman and is a former member of the Human Rights Committee and the current Chair of the National Youth Commission. Effective 1 April 2014, Reverend Myers was appointed for a period of three years.

Ms. Lisa-Ann Hurlston-McKenzie

Lisa-Ann Hurlston-McKenzie is an Environmental & Sustainability professional. She was among the judging panel for the 2010 Governor's Award for Design & Construction Excellence, and chaired the National Assessment of Living Condition's Institutional Analysis Sub-Committee. Lisa-Ann has presented papers at the UK Overseas Territories Conservation Forum, EU Overseas Countries and Territories Association Workshop and Caribbean Heads of Judiciary Conference on focusing on environmental impact assessments and environmental law. She has also co-authored publications on and facilitated numerous national and regional meetings related to climate change impacts, vulnerability, adaptation

and mitigation in small island states. Effective 1 April 2014 Lisa-Ann was appointed as a member for a period of four years.

Mr. Ben Tonner

Ben Tonner is a Partner at Samson and McGrath whose practice covers all aspects of litigation and dispute resolution with an emphasis on cross-jurisdictional, financial matters. He has extensive experience advising high profile corporate and private individuals.

Ms. Danielle Coleman

Danielle is currently employed as the Director of Operations and Development at the Cayman Islands Hospice Care. She holds both a Master's degree in Law and one in Understanding and Securing Human Rights. Danielle has extensive experience working in the humanitarian sector in the Cayman Islands and overseas, specifically in areas relating to disaster response & risk reduction, human rights, gender equality, disabilities and sexual violence. Having qualified as an Attorney in 2003, Danielle left the legal world to assist in a dive recovery program in post Tsunami, Thailand. Since then Danielle has worked for the Human Rights Committee, the British Red Cross, the Cayman Islands Red Cross and the Red Cross International, Regional and National Emergency Response Teams. Danielle served as Director on both the Estella Scott Robert's Foundation and No Strings puppet charity and has been an active volunteer for Legal Befriender's clinic for over ten years. Danielle is a Yoga teacher and qualified Reiki master and is a Rotary International Peace Fellow.

Appendix 2: Cayman Islands Bill of Rights, Freedoms and Responsibilities (BoR)

1. Guarantee of Rights, Freedoms and Responsibilities
2. Life
3. Torture and inhuman treatment
4. Slavery or forced or compulsory labour
5. Personal liberty
6. Treatment of prisoners
7. Fair trial
8. No punishment without law
9. Private and family life
10. Conscience and religion
11. Expression
12. Assembly and association
13. Movement
14. Marriage
15. Property
16. Non-discrimination
17. Protection of children
18. Protection of the environment
19. Lawful administrative action
20. Education
21. Public emergencies
22. Protection of persons detained under emergency laws
23. Declaration of incompatibility
24. Duty of public officials
25. Interpretive obligation
26. Enforcement of rights and freedoms
27. Remedies
28. Interpretation of the Bill of Rights