



PERFORMANCE AUDIT

OF

PUBLIC PROSECUTIONS - EFFICIENCY AND EFFECTIVENESS



Office of the Auditor General
Brades Main Road
Brades
Montserrat
January 2019

**PUBLIC PROSECUTIONS -
EFFICIENCY AND EFFECTIVENESS**

This is a Report of a Performance Audit
conducted by the Office of the Auditor
General pursuant to Section 103 of the
Montserrat Constitution Order 2010

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PREAMBLE

Vision Statement

The Office of the Auditor General plays a crucial role in ensuring that public monies are spent wisely. Our vision is therefore “to be a proactive Supreme Audit Institution that helps the nation to make good use of its resources”.

Mission Statement

The OAG is the national authority on public sector auditing issues and is focused on assessing performance and promoting accountability, transparency and improved stewardship in managing public resources by conducting independent and objective reviews of the accounts and operations of central government and statutory agencies; providing advice; and submitting timely Reports to Accounting Officers and the Legislative Council.

The Goal

Our goal is “to promote staff development, enhance productivity, and maintain a high standard of auditing and accounting in the public sector, thereby contributing to the general efficiency and effectiveness of public finance management”.

AUDITOR GENERAL'S OVERVIEW

The role of the Office of the Director of Public Prosecutions is vital to the functioning of the judicial system. Over the past 3 years, the ODPP has provided value for money, including (a) a success rate of 80% in its prosecutions at the High Court, (b) almost no turnover of employees, and (c) progress in the development of its staff.

Despite its constitutional mandate and the large number of legal cases initiated each year, the ODPP has, since its inception in year 2011, received a much smaller than desirable staff and budget. A number of inefficiencies are evident in the ODPP, as well as the wider judicial system, including (a) the intensive use of paper, printing, and physical deliveries of documents, when electronic information and communication would save time, cost, and storage, (b) a high percentage of delays and adjournments at the Courts, (c) limited openings of the High Court throughout the year, and (d) a large backlog of cases.

With improved staffing, funding, and use of electronic tools and technology, the ODPP could increase its efficiency, its effectiveness, and its value for money to all stakeholders. We have provided a number of other recommendations that we feel would benefit the Government and the citizens of Montserrat once they are implemented.

I wish to thank the Judicial Fraternity within the Montserrat Public Service and their staff and all other persons who provided information, clarifications or extended any courtesy to my staff during this assignment.



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ABBREVIATIONS

CARICOM	Caribbean Community
CAROSAI	Caribbean Organisation of Supreme Audit Institutions
CID	Criminal Investigations Department, Police Service
DFID	U.K. Department for International Development
DITES	Department of Information Technology & E-Government Services
EEP	Empowering Excellence Programme
GDP	Gross Domestic Product
GOM	Government of Montserrat
ICT	Information and Communication Technologies
IRD	Inland Revenue Department
INTOSAI	International Organisation of Supreme Audit Institutions
ISSAI	International Standards for Supreme Audit Institutions
MCRS	Montserrat Customs & Revenue Department
MCW	Ministry of Communications, Works, Labour and Energy
MOA	Ministry of Agriculture, Trade, Lands, Housing, and Environment
MOE	Ministry of Education, Youth Affairs, Community Services, and Sports
MOFEM	Ministry of Finance and Economic Management
MOH	Ministry of Health and Social Services
MOVA	Montserrat Online Visa Application
MPS	Montserrat Public Service
OAG	Office of the Auditor General
ODG	Office of the Deputy Governor
ODPP	Office of the Director of Public Prosecutions
OOP	Office of the Premier
SDP	Sustainable Development Plan

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EXECUTIVE SUMMARY

In an increasingly complex, fast paced and globalised economy, it is evident that high levels of workplace attendance and performance and efficient public services are very important to national development. This performance audit focused on (1) the ODPP's internal organisation and processes (e.g. recording and reporting of criminal cases), (2) the GOM's policy framework, and (3) the supporting judicial system.

Main Findings

- 1. Good quantity & quality of outputs.** An important finding is that, despite its very small staff complement, the ODPP is handling a large number of criminal cases each year. This applies both in the Magistrate's Court and in the Supreme Court. The value for money from the ODPP is evident in its average success rate of 80% of cases adjudicated in the High Court. In many cases, however, matters are suspended, deferred, adjourned, or dismissed. The backlog is big, costly, and growing. This impairs efficiency and value for money for the entire judicial system.
- 2. Under-staffed & under-resourced.** During the past 3 years (2015 to 2017), attendance records show that the DPP faced an overwhelming workload, with a staff of only 2 or 3 persons, on average. Effective staffing was further reduced by various categories of absence. Training, development, funding, compensation, and equipment are, in most cases, well below what is required for the ODPP and, for instance, the Magistrate's Department to be efficient and effective in delivering their expected outputs and outcomes. ODPP's funding was cut in 2015/16.
- 3. Under-use of ICT.** In the ODPP, in line with the findings of our previous audits throughout the MPS, too many processes remain in manual mode and with excessive use of paper. The huge accumulated volume of data, reports, case files and documents of various kinds is time consuming and inefficient to manage and increasingly costly to store. This also creates (a) major fire hazards and (b) increasing health risks to the staff within their workplace.
- 4. Major security risks.** Both personal safety and the security of assets are seriously inadequate. For example, at least 4 fires have affected the judicial system in the past decade: [a] 2 court rooms; [b] the former Chief Magistrate's home; and [c] the current DPP's home. Evidence pointed to arson in all of these cases, amounting to attempts to threaten or to intimidate senior persons within the judicial system. The lack of fireproof and waterproof cabinets and safes continually exposes valuable case-files and intelligence to damage, loss, theft, and deterioration.
- 5. Inadequate infrastructure and maintenance.** Repairs and maintenance are often too late or delayed. Surveyed employees and stakeholders in the judicial system complained of many issues affecting work stations and workplaces. Frequently, requested purchases or asset-replacements are denied budgetary support and/or excessively delayed. In turn, the status quo

poses significant risks to health and safety. These factors limit the revenue generating capacity of ODPP and the judicial system, as well as effectiveness and value for money.

Key Recommendations

6. Install up-to-date security systems for files & for staff. Given the repeated acts of arson committed against key judicial officers in Montserrat in recent years, personal safety and data security must be given urgent attention both at the workplace and at home. Measures could include (a) 24/7 electronic monitoring, (b) closed circuit television, (c) security cameras, (d) security guards, (e) security fencing around judicial workplaces and premises, (f) fire alarms, (g) smoke detectors, (h) fire hydrants, (i) indoor sprinkler systems, (j) physical and electronic locks on all doors, and (k) reinforced and storm proof windows and doors.

7. Improve record keeping and file management. Urgent attention needs to be given to (i) standardisation of file naming, (ii) file saving, (iii) record management, and (iv) the primary use of the GOM H-drive rather than personal C-drives. Clerical and administrative staffers require coaching and annual refresher courses to make sure that they are utilising the full range of functionalities within the standard suite of software so as to produce complete, accurate, and timely records and reports to support effective decision making.

8. Provide adequate staff and funding. The ODPP requires an overall budget of approximately EC\$1.20 million per year to provide adequately for such items as (i) training and development of the staff, (ii) installation of security systems for files, assets, and staff, (iii) repairs and maintenance to provide a safe and ergonomic workplace, and (iv) ICT upgrades to save time and money, while enhancing data security, business continuity, and quality of public prosecutions. Additional staffing and funding will be required to address the backlog of legal cases, while upskilling for the newer areas of law.

9. Provide up-to-date accommodation, equipment and facilities. Both the ODPP itself and related judicial Departments urgently need modern and ergonomic workplaces, software, forensic tools, specialised training, vehicles, and equipment. Too many items are [i] inadequate, [ii] repeatedly not provided/budgeted for Departments, [iii] not functioning, and/or [iv] obsolete. Repairs and asset replacements are often delayed for months or even for years. From workplaces to court rooms, the current accommodation is inadequate and cramped, and several facilities and amenities are lacking for all judicial officers, clients, lawyers, and members of the public.

Audit Conclusion

Amidst its constraints, the ODPP has provided value for money. It is commendable for achieving (i) low and falling overall absence rates and well below the public sector's averages during the past 3 years (2015 to 2017), (ii) extremely low turnover of staff over the past 8 years, and (ii) an average success rate of 80% in its prosecutions at the High Court. For several years, however, insufficient funding, resources, and staffing have been allocated to the ODPP and the judicial system, reducing the efficiency, the timeliness, and the effectiveness of criminal prosecutions.

Key facts include (1) there is only one full time resident judge for the Magistrate's Court; (2) the High Court operates only a few months of the year; and (3) the Courts' hearings of legal matters are frequently adjourned or deferred, adding to the backlog of legal cases. Moreover, judicial departments' information systems, communication patterns, client service channels, record keeping, and reporting methods are mostly outdated, expensive to maintain, and neither efficient nor highly effective. In all sectors and industries, current and prospective investors and businesses alike are deterred (a) by the uncertainties of judicial processes and (b) by frequently observed/reported delays and costs in completing legal cases efficiently to produce an outcome that is satisfactory to stakeholders.

In short, the efficiency, effectiveness, and value for money of the ODPP and the judicial system can be greatly enhanced with (i) improved funding and resource management, (ii) comprehensive health and wellness programmes, (iii) safe, secure, and well maintained workplaces, (iv) ergonomic work stations, and (v) strategic HR approaches to recruitment, induction, training, promotions, development, and succession. Once they are adequately funded, staffed, and equipped, the ODPP and the judicial system stand to recoup their costs, and could boost the GOM's revenues through higher case completion rates, and the increased value of resulting fines, penalties, and asset forfeitures. These are some of the tangible elements of value for money.

CHAPTER 1: INTRODUCTION

Background

1. This performance audit focused on (1) the ODPP's internal organisation and processes (e.g. recording and reporting of criminal cases), (2) the GOM's policy framework, and (3) the supporting judicial system (e.g., Police Service, Criminal Investigations Department, Financial Crime & Analysis Unit, Magistrate's Court, Attorney General's Chambers, and the Supreme Court). These interconnected dimensions have implications (a) for individual efficiency, (b) for departmental effectiveness, and (c) for the quality of service to the public. The quality and timeliness of public prosecutions particularly (and, more generally, the activities of the GOM and throughout the MPS) affect the entire economy and society of Montserrat. This is very important since the GOM and the wider MPS still constitute about 75% of GDP and roughly 65% of full-time employment in the national economy, and they have numerous multiplier effects.

Objectives of the Audit

2. This audit sought to examine the role of public prosecutions and its impact on the judicial system in the public sector of Montserrat. Consideration was given to (a) the quality of internal records and reporting, (b) management of human and other resources, (c) issues, limitations, and challenges and their causes, and (d) their impact on the ODPP's organisational efficiency and effectiveness for stakeholders. Finally, the study aimed to identify, to measure, and to assess the ODPP's channels of communication with other agencies and stakeholders. In particular, we sought to identify the ODPP's and the judicial system's major challenges and shortcomings, and, hence, opportunities and recommendations for improving the outcomes for all stakeholders.

Scope of Performance Audit

3. The scope of this performance audit was to examine the status and the past 3 years' trends within public prosecutions. We included several GOM departments in our review in order to assess the 360-degree perspective of stakeholders regarding the ODPP's mandate, structure, efficiency, quality of outputs, communication, quality of service, and overall performance. Financial and other data analyses focused on the current year and the prior 3 years (i.e., years 2015 to 2018). However, several types of desired data/reports are either not available at all, or have not been gathered, and/or records have not been retained for some periods in all departments.

Scale of Performance Audit

4. The scale of this performance audit included agencies and Departments within the GOM that interact in any way with or through the ODPP and the judicial system in Montserrat.

What We Excluded from this Audit

5. We excluded data prior to the year 2015, except for background knowledge and local context. We did not include any statutory bodies or State owned enterprises. We excluded comparative compensation analyses and other cross country reviews. We also largely excluded regional data sets, except for background information, thus emphasising Montserrat specific current and very recent historical data sets. Future performance audits and GOM's own strategic plans will need to address these areas in order (i) to reach optimal human resources management (including effective recruitment, competitive compensation, and long term retention of talent), (ii) to sustain effective financial management, and (iii) to exceed comparative Caribbean standards and global best practices as Montserrat competes with other countries for talent, funding, and investments.

Why We Performed This Audit

6. **Economic Role of Government.** In Montserrat, the public sector is much larger as a percentage of the workforce and as a percentage of Gross Domestic Product (GDP) than it is the case in most other countries in Caribbean and Latin America. Hence, Government of Montserrat's (GOM) policies and programmes, public sector spending, and public services play pivotal roles in either catalysing economic development or impeding national progress (National Tourism Policy, 2016, p. 22). Public prosecutions operate within both public and private sectors.

7. **Quality of Public Services.** Since most of the island's employment is within the public sector, any deficiencies in public servants' attendance and performance have ramifications for the entire country, including the sustained development of businesses and job creation in the private sector. During the past 18 to 24 months, the public sector, as well as the rest of the society and economy, has suffered, for example, (a) some interruptions of ferry service, (b) recurrent outages of power supply and internet services, and (c) concomitant significant losses of productivity in its internal operations, including early closure of offices in some instances. All citizens and residents interact with the public service directly and indirectly and depend on the fair, impartial, and effective administration of justice, among many other public services.

8. **Effective Private Sector Development.** Investors depend on having certainty about the laws and regulations of the country. Businesses and citizens alike expect [a] their rights to be protected and [b] their property and possessions to be defended from encroachment or offences. The orderly development both of the society and of the economy requires an efficient and

effective judicial system, including [a] the Montserrat Police Service, [b] the Criminal Investigations Department, [c] the Office of the Director of Public Prosecutions (ODPP), [d] the Registry Department, [e] the Magistrate’s Court, [f] the Attorney General’s Chambers, and [g] the Supreme Court. All of these agencies, along with other partners (e.g., MOH, MOE, Probation Officers, Social Services Department, MCRS, and IRD), interact with each other. Collectively, they determine the quality of the administration of justice in both civil cases and criminal matters.

How We Performed This Audit

9. Interviews. Initially, we engaged in interviews with senior public-sector officials across various Ministries and Departments that interact with the ODPP. With the guidance provided by these meetings, we proceeded to devise questionnaires and data gathering techniques suitable for the purpose of assessing (i) the efficiency and the effectiveness of data gathering, reporting, human resources, and interdepartmental communication and co-operation related to public prosecutions, and (ii) the trends, outcomes, and costs of public prosecutions.

10. Reviews of relevant law, regulations and literature. Before and during our fieldwork, we researched GOM laws and regulations in order to establish the legislative framework for our performance audit. The programme of research then encompassed the scholarly literature on such relevant subjects as (a) the judicial system, (b) human resources management, (c) public sector efficiency and effectiveness, and (d) performance benchmarks and standards of service. These sources supplemented our reviews of various internal and external documents related to the GOM’s policies, structures, and operations affecting the issues of public prosecutions and justice within the public sector.

11. Internal & External Evidence. Various information requests were made during February, 2018, to May, 2018. Emphasis was placed on factors affecting the ODPP’s efficiency and performance. In particular, we sought to know (a) whether the staff was adequately trained, equipped, and managed during the past few years, (b) issues affecting the department’s performance and outputs, (c) the quality of communication and co-operation with other departments, and (d) recommendations/opportunities for improvements.

12. Standards used. This audit was conducted according to standards promulgated by the International Organisation of Supreme Audit Institutions (INTOSAI) for performance audits. Those standards require that we plan and perform our audit in order to obtain sufficient and reliable evidence to reach a reasonable conclusion about the performance of the ODPP with regard to [a] its efficiency and [b] its effectiveness during the period under review. The international standards used to perform this audit engagement and to assess the findings of this audit include ISSAI 1, ISSAI 100, ISSAI 3000, and ISSAI 3100.

CHAPTER 2: DATA & FILE MANAGEMENT

Findings

13. No monthly reporting to HRMU. An important finding of our research in recent MPS surveys is that most of the GOM's departments are consistently submitting the required absence monitoring reports to the HRMU. However, the ODPP is one of the exceptional cases: in violation of HR Circular #2 of 2012, it neither compiled nor submitted the required absence reports during the past 3 years (2015, 2016, and 2017). We saw no such reports until April, 2018.

14. No integrated Electronic Information System. Despite the large volume of case files and legal documents, ODPP has no integrated databases or comprehensive digital document management. For instance, for the Supreme Court, each legal case can involve up to several thousands of pages, which are then copied nine (9) times. Essentially, too many processes remain in manual mode with costly and excessive use [a] of stationery, [b] of paper/forms, [c] of printing, and [d] of physical transportation/delivery. These have several negative implications: e.g.,

- (1) High and increasing carbon emissions and impact on the environment,
- (2) Excessive energy use and related operating costs,
- (3) Employees' ailments (e.g., accumulating dust and declining indoor air quality), and
- (4) The increasing storage space required,
- (5) Fire hazards,
- (6) Security risks.

The huge accumulated volume of files, paper documents, and unprocessed/under-processed data and reports is time consuming to handle. Storage is costly and retrieval of files is tedious. Research and analysis are inefficient and, over time, documents can easily be misplaced, damaged or lost (especially when moving from place to place between departments and officials). Generally, much effort goes into preparing reports, but very little effective or strategic use is being made of many of these reports.

15. Lack of HR monitoring, metrics, statistics and timely information. In our research of the HRMU's files, expected information for the ODPP and for other legal departments was often found to be [a] out of date, [b] not in logical date sequence, [c] incomplete/missing, and/or [d] required documents were not submitted by departments. Some key performance-

measures and HR management statistics are not gathered at all; others are gathered infrequently. In several cases, across ODPP and the various judicial agencies and related departments that report cases to, and/or work with, the ODPP (e.g., the Attorney General, the Registrar, the Chief Magistrate, the Comptroller of Customs, and the Comptroller of Inland Revenue), evidence of performance appraisals is lacking, indicating that Heads of Department have not been appraised and/or that appraisals have not been reported to HRMU for recent years. For instance, the most recent one at HRMU for the DPP is for the fiscal year 2014-2015. This is contrary to the ODG's policies for public servants and is not contributing to the GOM's mandate and strategic vision of transparent and accountable governance throughout the MPS.

16. Reporting timeliness and quality need improvement. Timeliness, quality, and reliability are matters of great concern. In many cases, both in this audit and in our other recent study of absenteeism across the MPS, the number and types of errors and omissions that we found indicate that Heads of Department have been signing monthly reports sent to HRMU, but without checking that each report is complete and accurate. Some Departments, including the Supreme Court, submitted revised data showing significant changes and corrections from the originals that we received. In turn, this means that timely decisions are not made and/or that inaccurate or misleading reports could easily undermine the quality of some of the decisions that are made at all levels: e.g., employees, Departments, Ministries, HRMU, and Cabinet.

17. Inadequate file management and storage. The ODPP has little or no security of records (e.g., lacking fireproof and waterproof safes/cabinets) and almost no security of the building or of the staff (apart from door locks). Intensive use of paper creates fire hazards, health-risks, risks of unauthorised access, progressive deterioration/damage of documents, rising costs of physical storage, and ever increasing need for storage-space.

18. Several fires have affected the judiciary. From court houses to judicial officers' homes, a number of acts of arson have been documented in recent years. The lack of security for buildings, assets, and personnel exposes the ODPP and related agencies to high risks (a) of losing physical documents completely, (b) of major damage to buildings, (c) of destruction of assets, and (d) of injury or death to judicial officers and their families.

19. The only method of payment is cash. Clients, lawyers, and members of the public dealing with the ODPP and the judicial system are restricted to cash only for all payments. This is costly, inconvenient, limited to one venue, and within restrictive opening days and hours.

Recommendations

20. Install up-to-date security systems for assets, files & staff. The DPP could liaise with MOFEM and DITES for determining the items and budget required. Given the repeated acts of arson committed against key judicial officers in Montserrat in recent years, security must be given urgent attention. Senior officials' life and safety require constant electronic security and monitoring of homes and work premises. In turn, it is imperative to provide fireproof storage for case files, for evidence, and for important software, systems, and equipment. Measures could include (a) 24/7 electronic monitoring, (b) closed circuit television, (c) security cameras, (d) security guards, (e) security fencing around judicial workplaces and premises, (f) fire alarms, (g) smoke detectors, (h) fire hydrants, (i) indoor sprinkler systems, (j) physical and electronic locks on all doors, and (k) reinforced and storm proof windows and doors.

21. Enhanced resilience and business continuity. The DPP could liaise with MOFEM and DITES for determining the items and budget required. Backup power sources and remote electronic data storage (e.g., cloud computing) are essential to the maintenance of security-systems and operations, including handling interruptions of the national power supply. These measures are also needed to provide (a) robust resilience both during and after natural disasters (e.g., business continuity) and (b) enhanced data security in the event of any physical burglaries, thefts, or other damage to physical and digital information-assets.

22. Harmonise recording and reporting. The ODPP could liaise with HRMU, DITES, and other related judicial Departments to ensure that they are all recording and reporting with standardised categories, codes, formats, and time periods. The formats of files and reports must also be consistent for easy data-processing, interdepartmental comparisons, and aggregation by HRMU, by the OOP, by the Statistics Department, or by other users. Ensure compatible systems.

23. Improve the quality of reports. The ODPP could liaise with other departments in the judicial system to review the format and the content of each kind of report within ODPP and across the judicial system. Some ought to be discontinued; others need to be upgraded; in some cases, new types of report are required to measure and to monitor performance and progress. Innovations and best practices in high performing departments can be shared with all other departments through regular quarterly meetings and e-newsletters. In all cases, make electronic information and communication channels the default choices.

24. Improve record keeping and file management. Within ODPP, and across all the related departments, give urgent attention to standardisation of file naming, file saving, record management, and the primary use of the GOM H-drive rather than personal C-drives. For instance, clerical and administrative staffers require regular coaching to make sure that they are utilising the full range of functionalities within the standard software so as to produce complete, accurate, and timely records and reports to support effective decision making.

25. Encourage the use of an HR Information System (HRIS). The DPP should liaise with HRMU to place urgent focus on implementing a modern HRIS to improve the efficiency and the effectiveness of the HRMU and, by extension, people management across the MPS. An effective database will facilitate a wide range of queries, reports, and analyses and speed internal HRMU processes as well as replies and service delivery to all other MPS departments. Together with e-Government, this will improve decision making, accelerate implementation of the Empowering Excellence Programme, improve interdepartmental communication, and lead to better outcomes in a wide range of monitored performance metrics.

26. Make e-Government the default. Within 3 to 6 months, the DPP should liaise with the DITES [1] to create ODPP's website, [2] to make e-filing and scanning of documents basic practices, [3] to progressively digitise all archived materials, beginning with the most recent periods and working systematically towards older years, and [4] to institute regular use of e-channels of information, e-communication, and social media, and [5] to create a central e-portal for each category of stakeholder. This includes proactively improving [a] public relations, [b] stakeholder engagement, [c] public education, [d] schools, Social Services agencies, and community based programmes, and [e] crime prevention. These initiatives will produce several benefits: e.g., they will

- (a) Create synergies within and between ODPP, its partners, and other GOM departments,
- (b) Encourage intra-sectoral and inter industry co-operation,
- (c) Ensure real-time reporting for the prompt actions of all key decision-makers,
- (d) Reduce the costs of the current archaic modes of manual processes and cash only methods of payment, and
- (e) Enhance public relations, stakeholder engagement, and marketing efficiency and effectiveness.

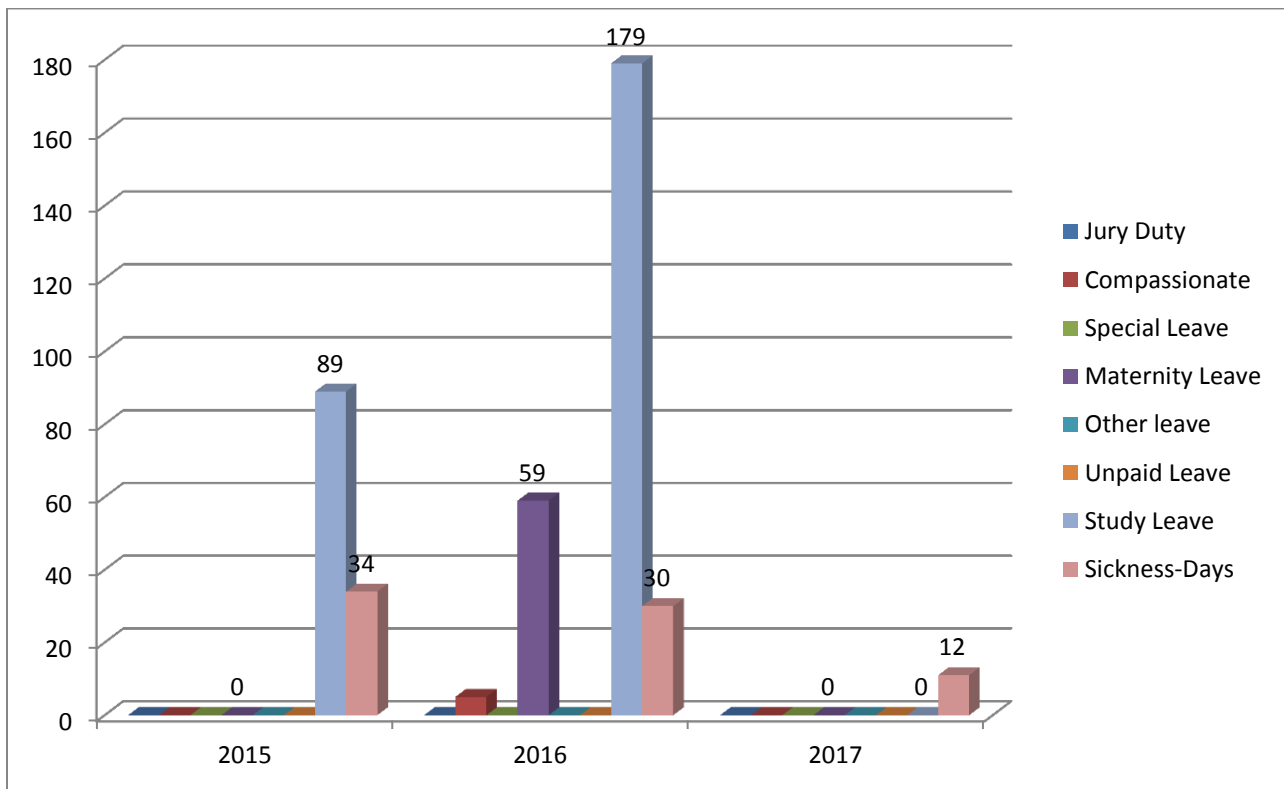
27. Facilitate multiple methods of payment. Among its several advantages, this strategy will also support ODPP and the judicial system with an essential online information-communication & payments infrastructure that will significantly reduce (i) the cost, (ii) the time, (iii) the risks incurred, and (iv) the efforts currently expended in such areas as [a] file handling, [b] physical deliveries and collections, and [c] paper documents, together with the related administration, accounting, and reporting. E.g., employees and stakeholders will no longer have to miss lunch hours or to take away from their work hours to pay bills, taxes, fees, etc. With a modern e-payments infrastructure, clients will be able to pay fees, fines, penalties, alimony, child-support and other obligations through multiple methods of payment, rather than cash only.

CHAPTER 3: MANAGING HUMAN RESOURCES

Findings

28. ODPP’s overall absence rates are low & falling. During the year 2017, the average number of sickness days was 3.7 days among employees who claimed sickness leave; the average per headcount (i.e., all employees) was 2.2 days per person. These averages were much lower than the corresponding rates for the years 2015 and 2016 for the ODPP. They also compared very favourably with the average absence rates (14.1 days for persons claiming sickness and 8.9 days per headcount) across the MPS for the year 2017. In year 2017, the total of all types of non-vacation leave was 4.6 days per person in the ODPP versus 19.1 days average across the MPS.

CHART: TOTAL OF ODPP’S NUMBER OF DAYS PER LEAVE-CATEGORY PER YEAR (2015 TO 2017)

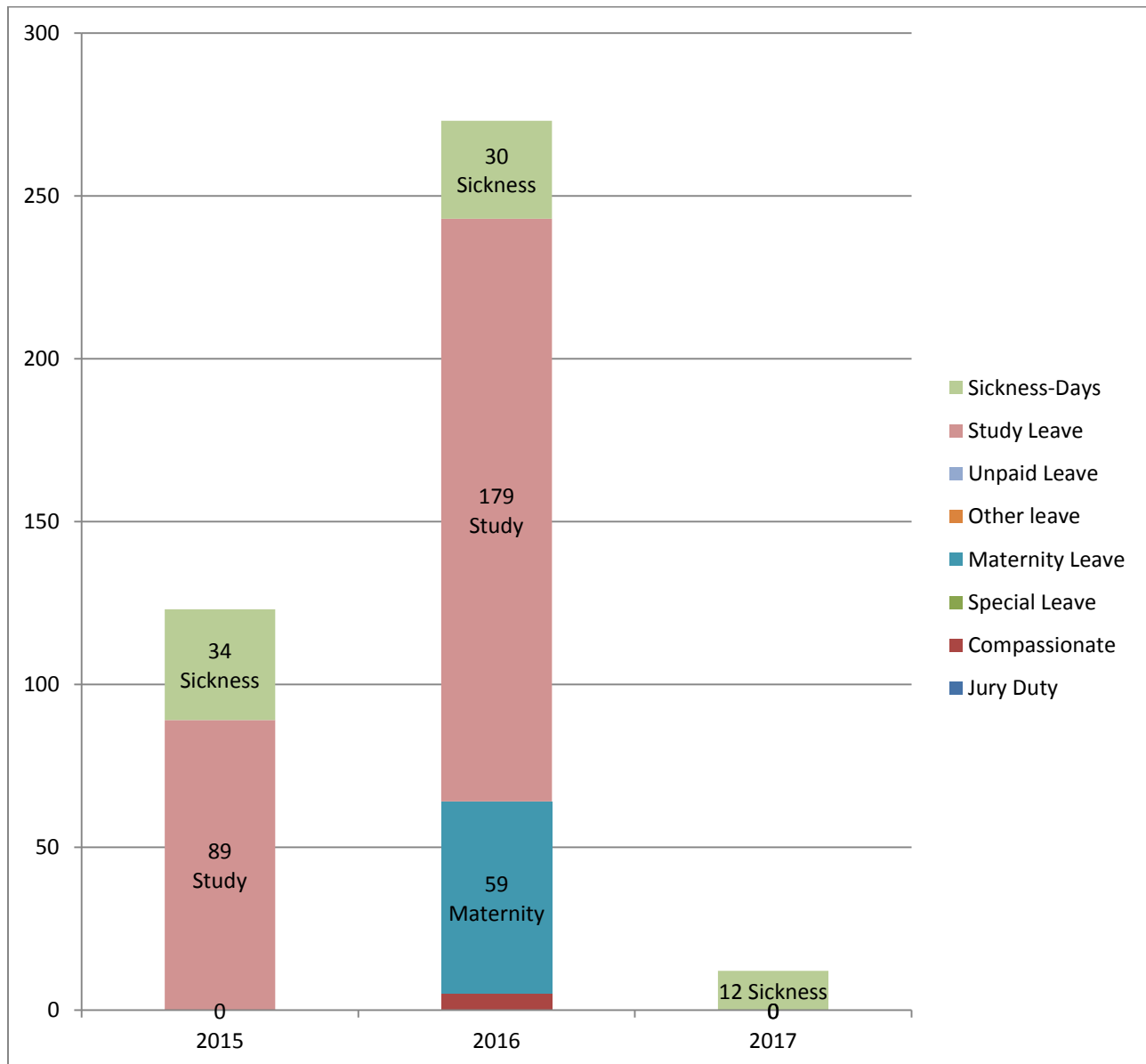


Note: The legend categories read from the leftmost column (jury duty) to the rightmost column (sickness). Study leave dominated in years 2015 and 2016; maternity leave was #2 in year 2016.

29. ODPP’s total absence-days are decreasing. The ODPP showed big improvements from year 2015 to year 2017. Every year prior to 2017, available records show that a large number of work days were lost to sickness leave and to other forms of non-vacation leave (e.g., especially study-leave and maternity-leave).

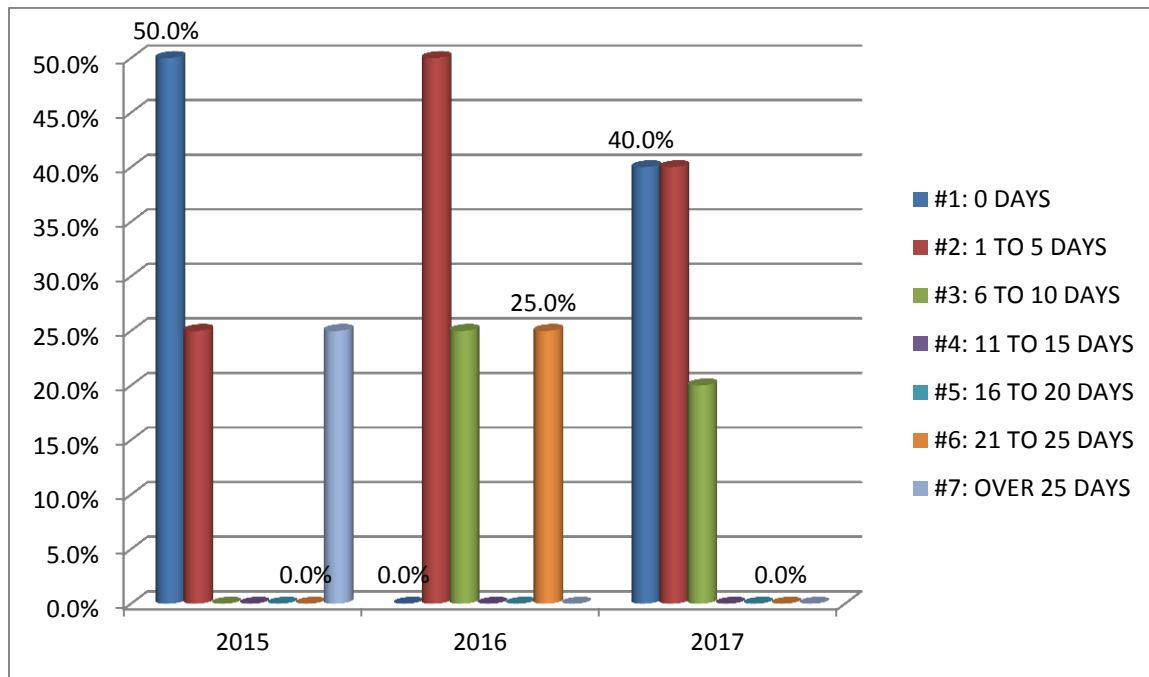
30. ODDP compares very favourably with the MPS’s absence averages for year 2017. Overall, the evidence that we have gathered shows that (a) the trend across the MPS has worsened since the year 2015, reaching over 18,000 lost days in year 2017 alone, and (b) there was a very high ratio of non-vacation leave (average of 19 days per person) to vacation leave (average of 21 days per person). The ODDP’s corresponding averages are fractions of these.

CHART: ODDP’S TOTALS OF ALL TYPES OF NON-VACATION DAYS LOST YEARLY (2015 TO 2017)



31. Over 75% of employees claimed only 0 to 5 sickness days. This was a very welcome finding for all three years (2015 to 2017). Last year was the best: 80% claimed 0 to 5 sickness days. In the previous 2 years, the highest individual claims were 21 days in year 2016 and 29 days in the year 2015. Overall, this shows major improvement during the past few years.

CHART: TOTAL SICKNESS-DAYS CLAIMED PER YEAR: % OF ODPP EMPLOYEES IN EACH TIER



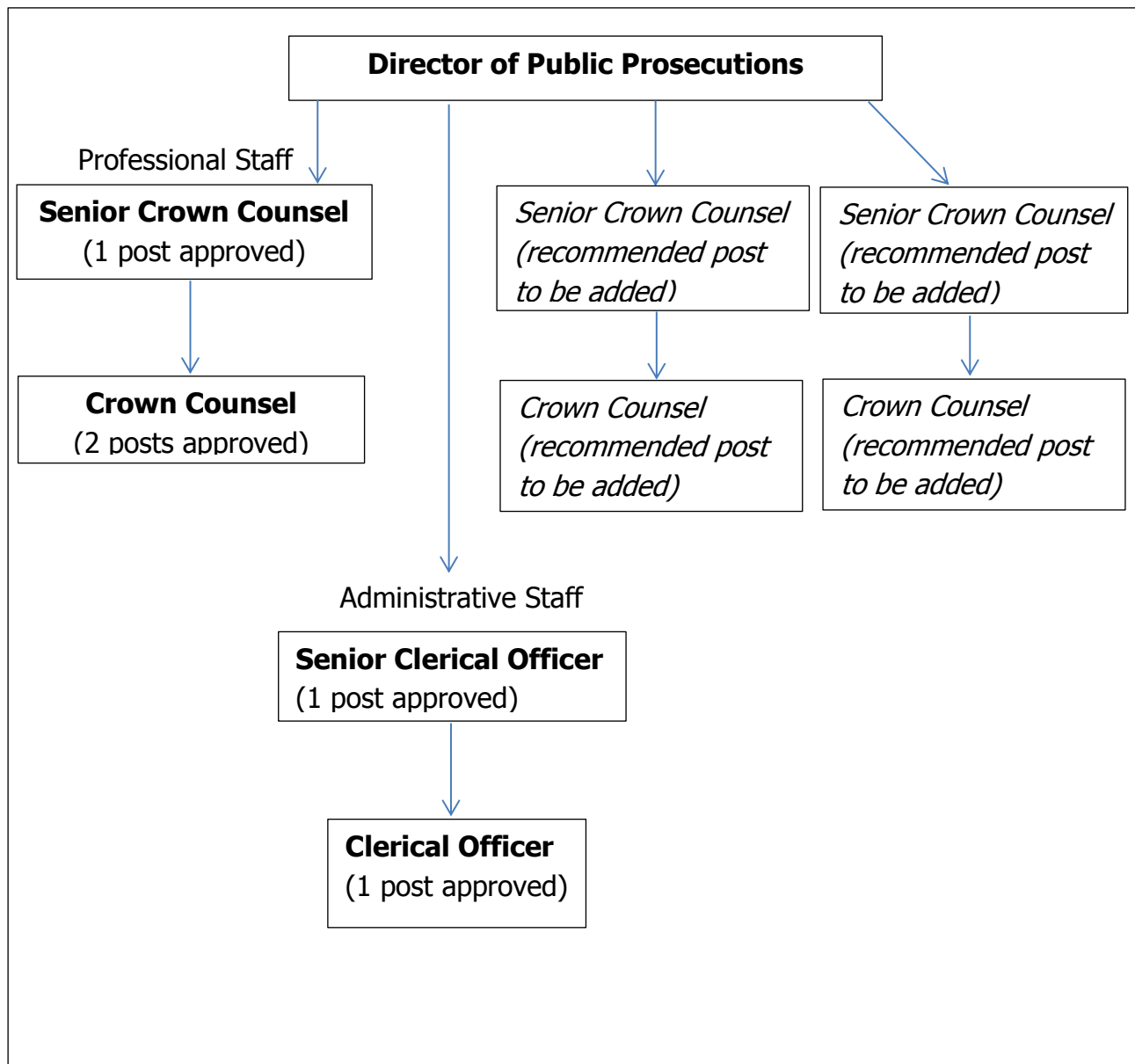
32. Extremely low ODPP staff turnover. One of the key strengths of the ODPP is that only one employee has left the Department within the past 7 years. However, there is high turnover within the Police Service, and this affects the pace and the quality of investigations leading to cases referred to the ODPP for public prosecutions.

33. Recruitment is much too slow. Over the past several years, the process has been repeatedly delayed, inefficient and ineffective. For example, in several instances, qualified applicants were unavailable by the time that they were contacted post interview (e.g., 3 to 6 months later). As another example, the recruitment of the new Senior Crown Counsel has taken 3 years. Likewise, the Police Service has had long delays in recruitment: a post of Inspector has been vacant for more than 2 years; a post of Superintendent was recently filled after 2 years of vacancy. Interdepartmental communication is also poor as the HRMU has also not consistently informed the relevant Heads of Department of its progress during each stage of recruitment.

34. No documentation of the outcomes/benefits of training. We received satisfactory records of overseas training for the ODPP’s staff for the past few years. Furthermore, the ODPP has a tradition that persons returning from training are expected to make an oral report at a staff meeting. However, there is no documentation of any employees’ post training reports or presentations. Likewise, there is no recording or documentation of whether or how their training was applied to their jobs, nor any attempt to measure outcomes or demonstrated benefits of training received.

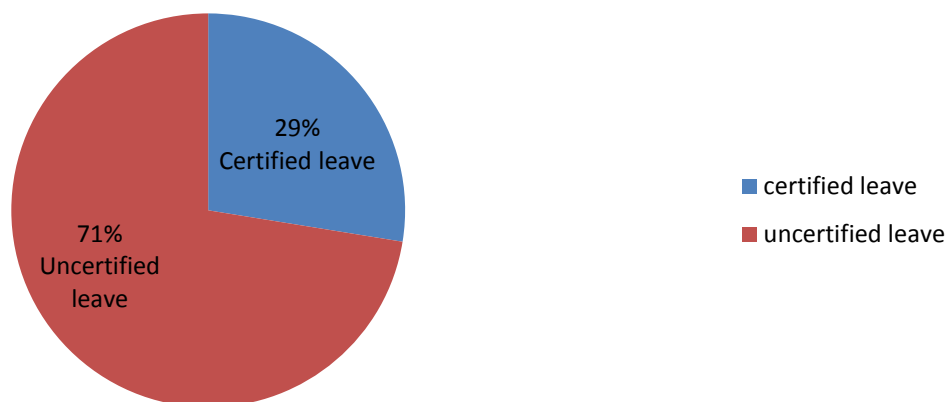
35. Low skill levels & professional capacity. One of the key weaknesses of the ODPP is that the number of employees has been too small throughout the past several years (since its inception). In particular, the subset of professional staff is even smaller, after accounting for administrative employees. One particular concern is the lack of experience and skills in several areas of law and public prosecutions, including money laundering, proceeds of crime, civil forfeiture, lifestyle audits, financial crimes, cybercrimes, e-commerce, and crimes requiring child protection. Specialists are needed in a number of areas of law.

**OUTLINE OF THE STAFFING OF THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS:
Actual posts as of fiscal year 2016/2017 versus recommended posts**



36. Uncertified sickness (%) is significant and rising. For the year 2017, 45% of the ODPP’s sickness days were uncertified; this was nearly double the overall MPS average for last year that 26% of all sickness days reported were not medically certified. This outcome for ODPP last year was much worse than the uncertified rates of 17% in year 2016 and 18% in year 2015. Furthermore, in terms of the number of absences, the uncertified percentage worsened from 63% in year 2015 to 67% in year 2016 to 71% in year 2017.

**Sickness-leave in year 2017:
Number of certified absences
versus number of uncertified absences**



Recommendations

37. Create an ergonomic workplace. In line with the Labour Code, the ODPP should place urgent focus on regularly inspecting and retrofitting its workplace and each workstation to ensure that they are safe, comfortable, productivity enhancing, and health promoting for all of its employees. In some cases, retrofitting will not be enough; new accommodation and amenities are required. Wisely investing in health and safety (e.g., through prevention, through regular education, and through timely repairs and maintenance of workplaces) will save the GOM millions of dollars in long term costs of preventable sickness, of high rates of absenteeism, and of major repairs/replacements of assets that could otherwise have been well maintained for a fraction of that cost (CIPD, 2017, p. 2). The DPP could liaise with the HRMU for support in these areas.

38. Implement Health & Safety Policies and Emergency Plans. Contrary to the Labour Code, to the MPS’s General Orders, and to other applicable HR standards and policies, the ODPP and other judicial departments have no/inadequate policies and plans for health, for safety,

and for disasters/emergencies. The majority of surveyed employees did not know about their Departments' health and safety policies and/or emergency plans, or even whether they existed. At the minimum, given the increasing frequency and strength of storms, we strongly recommend that the ODPP regularly practise these steps:

- (a) Develop and document appropriate policies and plans.
- (b) Review them at least annually and to keep them current with workplace conditions and employees' needs.
- (c) Share them with all employees, including their feedback and inputs.
- (d) Educate and to train employees in each aspect of these policies and plans.
- (e) Have rehearsals and practical sessions at least annually to assess, for example, (1) First aid skills, (2) disaster preparedness, (3) fire drills, (4) safety procedures, (5) backup batteries, fuel, and generators, (6) emergency communication equipment and channels.

39. Monitoring and review mechanisms. Given the lack of documented evidence of any actively implemented systems for identifying, for recording, for monitoring, and/or for effectively utilising many aspects of employee data, client satisfaction, and external communication, it is essential that the Head of Department work closely with the HRMU to establish a standard template for weekly and monthly reporting of faults, of complaints, and of feedback from employees as well as clients and other stakeholders. This would contribute to GOM's mandate of open and accountable governance within ODPP and across the judicial system in Montserrat.

40. Document training outcomes and benefits. For the ODPP, all employees receiving training must prepare a written report of their experiences and learning. Sharing with others in their department is highly encouraged (e.g., PowerPoint presentations; recording of all training materials and reports on the Department's H-drive in a directory accessible to all members of the Department). We urge the DPP and other judicial Heads of Department to review each employee's progress in applying training to his/her job and to document outputs, outcomes, benefits, and insights achieved. Annually, the DPP and each judicial Head of Department should provide a summary report to HRMU to document all training done and the results achieved, as well as a strategic plan for further training and development of each employee.

41. Use a Balanced Scorecard. This paradigm can provide a framework for creating regulatory and managerial dashboards and high quality quarterly and annual performance reports at all levels of the ODPP and, in turn, with and between all related departments and partners. This can be integrated into a performance based rewards and recognition system within GOM: for example,

(a) To celebrate individual achievements (e.g., recognising and rewarding those with 0 to 4 days of sickness absence for the year),

(b) To monitor departmental progress (e.g., overall reductions in unplanned absences; higher levels of employee satisfaction; higher levels of client satisfaction), as well as

(c) To highlight areas needing remediation (e.g., recurrent and/or excessive absences, complaints about supervisors/managers, and delays or deficiencies in the repairs/maintenance of workplaces, as well as Departments' furniture, tools, equipment, and vehicles).

42. Annual surveys of employees and of stakeholders. It is highly recommended that the ODPP, along with the HRMU, perform annual surveys [1] of employees and [2] of external stakeholders (e.g., judicial partners, suppliers, and contractors) that work with and/or provide goods or services to the Department. Create an open environment in which valid criticism is welcomed and new and better ideas, processes, technologies, and tools are embraced, documented, and tested, regardless of their source or the rank of the contributor. Each year, document, demonstrate, measure, and report satisfactory action on resolving at least one significant employee/stakeholder-related complaint, recommendation, or issue.

43. Annual customer surveys. The ODPP, along with HRMU, must be empowered with the resources to achieve surveys of clients/users of the Department's services at least annually. This effort would complement a national programme to encourage each of GOM's suppliers and service providers to perform its own quarterly or annual surveys of customers.

44. Improve public relations & stakeholder engagement. The ODPP, along with other judicial agencies and departments, should develop plans for public relations, improved service at the front line, and improved communication with stakeholders. Active community involvement, public education sessions, and preventative programmes in schools will help citizens and residents to know more about the work of the ODPP and the judicial system. Regular outreach via radio, printed media, and electronic channels will (1) build awareness of new laws, (2) encourage individual to maintain law abiding behaviours, and (3) spearhead prevention of crimes. Each year, document, demonstrate, measure, and report satisfactory action on resolving at least one significant customer related recommendation, complaint or issue.

CHAPTER 4: EFFICIENCY & EFFECTIVENESS

Findings

45. Growing backlog of legal cases. With the inadequate number of Crown Counsels (only 1 or 2 at any point during the past 3 years), and only one dedicated Magistrate on the island, the backlog continues to grow. E.g., in fiscal year 2016-2017, ODPP initiated 290 cases, of which only 198 trials were completed within that year, yielding 92 new additions to the backlog. As with the well-known challenges, costs, and taxpayer frustration of income tax cases/refunds/assessments taking up to 7 years, the longer that cases lag, the higher grows the risk of losing key evidence and/or witnesses.

46. Under-funding and budgetary cuts. Despite its broad mandate and the large number of legal cases initiated each year, the ODPP has had a small budget throughout its history since its inception in year 2011 arising from the Constitution Order of 2010. For example, in fiscal year 2015-2016, an increase of \$100,521 was approved, but then the estimates were cut by \$105,400, thus putting the ODPP in a worse financial position. The budgets from 2014-015 to 2018-2019 provided total non-salary funding in the range of only \$91,042 to \$92,100, reflecting almost no increase over a 5-year period, even though there were significant increases both (a) in general inflation in the economy and (b) in the needs of the department (e.g., recruitment, training, security systems, repairs and maintenance, purpose built office space, more/better amenities, file storage, ICT) to handle a growing current case load, in addition to the large backlog.

47. High Court: prosecutions are effective but very inefficient. Case summaries for the Assizes of November 2015 to November 2017 showed that the ODPP's success rate was very good: 80% of person cases that were sentenced resulted in a guilty verdict. However, 47% of person cases were dismissed or deferred, yielding an efficiency-rate of only 53%, which is poor. The High Court operates only a few months of the year; therefore, any adjournments or deferrals can cost months each time and, ultimately, years. Delays and adjournments are costly for all stakeholders in the judicial system and the persons involved.

48. Negative impact of delays and slow justice system. The impact of laws is much less when it is perceived within the society [a] that cases will be slow in starting, [b] that legal processes will be delayed for various reasons along the way, and/or [c] that consequences, if any, will be years in coming. Inefficient legal systems deter the immigration of high net worth economic residents, professional workers, and foreign investment. Modern business thrives when there is certainty of policies and regulations, and speedy resolution of conflicts, disputes, and legal cases. Shortening the backlog will increase stakeholders' confidence in the ODPP particularly and in the judicial system generally, and raise their public profile and credibility.

49. Good quantity & quality of outputs. An important finding of our research is that, despite having a very small staff, the ODPP is handling a large number of criminal cases each year. This applies both in the Magistrate's Court and in the Supreme Court. In a significant number of cases, however, matters are suspended, deferred, adjourned, or dismissed.

50. Major security risks. Both personal safety and the security of assets are seriously inadequate. For example, at least 4 fires have affected the judicial system in the past decade: [a] 2 court rooms (Caribbean360, December 3, 2012); [b] the former Chief Magistrate's home (Montserrat Reporter, October 17, 2014); and [c] the current DPP's home. Evidence pointed to arson in all of these cases, amounting to attempts to threaten or to intimidate senior persons within the judicial system. The lack of fireproof cabinets and safes continually exposes valuable case files and intelligence to unauthorised access, to damage, to loss, to theft, and to deterioration.

66. No procedures manuals in ODPP. The ODPP lacks written policies/procedures in several areas and has not had official guidelines and up-to-date manuals for operating procedures. No formal review of procedures/policies was done within the past 3 years.

67. Low/no responsiveness from the ODPP. For example, despite an HR Circular in December, 2017, the ODPP provided no absence related reports or data until April 18th, 2018 (nearly 5 months later). Likewise, during February and March, 2018, several emails to DPP@gov.ms received no acknowledgement. Subsequently, information requested from the ODPP was not provided until late April and the first half of May, 2018. These factors significantly impeded the audit during its first 2 months and then required overtime and an extension well beyond the original 3-month duration (February, 2018, to April, 2018) budgeted for this audit.

68. The ODPP and the judicial system are seriously under resourced. All interviewees reported deficiencies of various kinds, including (a) under-staffing, (b) inadequate training and development for new and junior employees, and (c) lack of, or inadequate provision of, amenities, furniture, workspace, tools, equipment, vehicles, and/or suitable protective gear. In many instances, requests for repairs, for maintenance, for training, for recruitment, and/or for procurement/replacement of appropriate assets have been ignored or delayed for weeks, for months, or even for years. This contributes to widespread dissatisfaction among employees and also hinders effective service to the public. Over time, the opportunity costs of neglect and delays exceed the actual direct cost of obtaining the required resources that will empower the ODPP and related judicial departments with the people, the premises, and the tools needed to do their jobs well.

69. The rising risks of under investment. If they are adequately resourced, DPP and related judicial departments have significant potential to become self-funding and to make a net positive contribution to the GOM's budget. For example, just a few large value interceptions of international money laundering, asset forfeitures, proceeds of financial crimes, illicit drugs or

stolen goods could quickly repay the cost of acquiring suitable equipment, tools, software, and staffing for the ODPP and for related agencies such as the Police Service, the Criminal Investigations Unit, the Magistrate's Court, the Registry, the IRD, and the MCRS.

70. For instance, whilst it is good news that the Police Service has just received a new ship and related staff and training, the fact remains that both of these revenue-earning departments were without satisfactorily functioning marine vessels for a number of years. This was a major weakness in border protection and counter-crime capabilities in high value areas (e.g., illicit drugs, contraband, and human trafficking). ODPP and all judicial departments urgently need to have up-to-date training, tools, equipment, standards, and modus operandi rather than second-hand versions from elsewhere, or none at all. In too many instances, surveyed employees noted that things are often neglected until they reach a point of crisis, or until an accident or injury occurs. In the long term, delayed restoration, remediation, and post event recovery are far more expensive than prevention and proactive training and investments.

71. Finger printing machine is not working. This equipment (the Affix machine) is essential to modern crime fighting and evidence gathering. However, it has not been working for some years, limiting the CID's capabilities and, in turn, the ODPP's efficiency and effectiveness in prosecuting legal cases.

72. Forensic capabilities are low. The ODPP works closely with the Police Service, which is the primary entry-point for legal cases referred for public prosecutions. However, the on-island police officers lack the equipment, the software, and the training for 21st century forensic investigations. Two examples of urgently required services are: **[a]** I2 (pronounced "eye-two") software for the Financial Crime & Analysis Unit; and **[b]** WorldCheck, which enables background-checks.

73. Very slow responses from the Attorney General. The Police Service, the Registrar, and the DPP have experienced very slow response rates from the Attorney General's Chambers regarding their respective proposals for amendments to existing laws and regulations.

[a] E.g., the **Jurors Act** needs revising, since the number of exemptions greatly limits the effective pool of potential jurors in an already very small population.

[b] E.g., the **Firearms Act** urgently needs regulatory amendment to allow for annual licence payments rather than the current inconvenience and the great cost and inefficiency of quarterly payments; this matter has been with the Attorney General for 10 years and counting.

[c] E.g., the **Police Act**, the **Road Traffic Act**, and the **Immigration Act** have also been recommended for enhancements and modernisation. For instance, they need to be revised to make Montserrat more business-friendly and pro-development.

74. Training & HR development are inadequate. Some areas of weakness are:

- (1) The ODPP and other judicial departments lack documented strategic plans for the long-term training and development of each member of staff, including (i) career planning, (ii) succession planning, (iii) targets for individual and departmental operational efficiency, and (iv) standards and metrics of service quality.
- (2) Evidence gathered in interviews and from records of training revealed that (a) employees have not consistently received enough training; (b) during the past 4 years, regional/international training opportunities were few, and (c) they were not fairly distributed across the professional staff. Regular training, personal development, and professional upskilling are essential (1) to ensure professionalism within the judicial services, (2) to promote international standards locally, and (3) to achieve a regionally competitive public service (e.g., attracting talent) and economy (e.g., attracting visitors/investors).
- (3) There is a lack of experience/skills in several of the newer areas of law introduced in the past 5 years, as well as a lack of capacity within the ODPP to handle the emerging areas of law such as cybercrimes, cross border financial crimes, and crimes involving juveniles and child-protection.

75. Lack of monitoring. From the evidence that we found, the ODPP and other judicial departments have no comprehensive system that is documented for checking, for monitoring, or for reviewing critical metrics such as (a) service quality, (b) employee satisfaction and achievements, (b) client satisfaction, (c) fault calls, and (d) disruptions to service/utility delivery. Matters are usually handled (e.g., by telephone or in person) whenever they arise, but without adequate records in most cases. Hence, valuable organisational history, service related data, and useful statistics are unavailable and/or they are available, but are not being used.

76. Inadequate infrastructure and maintenance. Although significant progress has been made in recent years to provide modern accommodation for many of GOM's departments, several departments, including ODPP, Magistrate's Court office, the Registry, and other judicial departments, remains in various unsatisfactory working conditions. Moreover, repairs and maintenance are too often late or delayed and under-budgeted. Surveyed employees complained of such issues as the following: (a) leaking roofs, (b) mould, (c) fungus, (d) non-ergonomic work stations, (e) malfunctioning air-conditioning-units, (f) lack of appropriate furniture, (g) lack of amenities (e.g., no designated sick-bays in workplaces; inadequate staff-rooms), (h) broken/damaged window panes and doors, (i) inadequate lighting, and (j) lack of security (e.g., no exterior cameras; unmanned entrances; unlocked or otherwise unsecure exterior doors).

77. Other much needed items. Other unsatisfactory infrastructural matters and lack of amenities that interviewees identified within the judicial system include the following items:

- (a) the facsimile machine for the Police Service has not been functioning for several months;
- (b) ODPP requires a dedicated vehicle (e.g., for deliveries and for serving summons/documents);
- (c) Further replacement of the Police Service's vehicles, most of which are over 10 years old;
- (d) Within the Court premises, lack of facilities for lawyers to meet with clients;
- (e) Within the Court premises, no dedicated room for jurors;
- (f) Suitable facilities for temporary custody and for persons on remand (to avoid overcrowding of the prison and to avoid exposure to high risk convicts).

Recommendations

83. Provide adequate staff and funding. The ODPP requires an overall budget of approximately EC\$1.2 million per year to provide adequately for such items as (i) regional and international training and development of the staff, (ii) installation of security systems for files, assets, and staff, (iii) repairs and maintenance to provide a safe and ergonomic workplace, and (iv) ICT upgrades to save time and money, while enhancing data security, business continuity, and quality of public prosecutions. Additional staffing and funding will be required to address the backlog of legal cases, while upskilling for the newer areas of law.

84. Implement certification and accreditation. The DPP should liaise with the HRMU to provide guidance, technical expertise, and training in supporting ODPP and other Departments in the judicial system to seek and to qualify consistently for various regionally and internationally recognised certifications. Participation in peer-review programmes, in internships, and/or in secondments (both inward and outward) will also be developmental for everyone in the department. This is also very important since the entire country's reputation is affected by the rankings and ratings of international bodies based on the functioning of the judicial system.

85. Promote and reward desired behaviours. Provide support and incentives to encourage high percentages of punctuality, attendance, and on-track performance. Monitor progress and achievements, report them monthly, and recognise them quarterly and annually. What is measured is managed. What is recognised and reported gets attention sector wide. What is rewarded is likely to become more common. To encourage the widest participation and

recognition, establish categories of awards and incentives: (i) for the judiciary system, (ii) for Departments, (iii) for Units, and (iv) for individual excellence.

86. One excellent example of this approach (emphasising positive reinforcement rather than punitive measures) is the programme institutionalised within the Fire Dept. and, more recently, within the Police Service: employees with 0 sickness days for the year are awarded 5 bonus vacation days; those with 1 sickness day for the year are awarded 4 bonus vacation days; those with 2 sickness days for the year are awarded 3 bonus vacation days; those with 3 sickness days for the year are awarded 2 bonus vacation days; and those with 4 sickness days for the year are awarded 1 bonus vacation days. For junior level employees, this one measure offers up to 25% boost to their vacation leave each year without any incremental cash cost to GOM's annual budgeted expenditures.

87. Responsiveness and prompt communication. The ODPP must ensure that all incoming communication (e.g., via post, e-mail, and other channels) gets prompt acknowledgement. Establish suitable timeframes for responding within high standards of service (e.g., the same day or by next business day), which must become written policies and be reviewed and assessed annually. This is in line with GOM's mandate of accountability and good practices.

88. Implement modern marketing, public relations, and CRM. It is imperative to strengthen and to equip the ODPP, along with each of the GOM's public facing units and judicial Departments, with adequate resources for Client Relationship Management (CRM), including [a] appropriate numbers and allocations of employees, [b] quality assurance and compliance systems, [c] business facilitation unit/strategy, [d] stakeholders and public relations unit/strategy, [e] investor/client assistance unit/strategy, and [f] a comprehensive planned programme of in-house training and refresher courses for officers and for service providers at all levels to ensure the appropriate level of skills and the most effective frontline staffing and stakeholder relations. Greater accountability is required in training, coaching, and assessing staff in relation to client-focused objective metrics: e.g.,

- (1) The number and types of case-files, inquiries, accounts, reports, products/services delivered, and complaints processed;
- (2) The incremental costs saved and/or revenues (e.g., legal fees) earned arising from effective client relationship management, assessments, reviews, and audits;
- (3) The timeliness of error corrections,
- (4) The timeliness, completeness and accuracy of (i) billing, (ii) statements, (iii) reports, (iv) payments to suppliers, and (v) disbursements of grants/refunds/other (e.g., the IRD, the MCRS, the MOFEM); and
- (5) The timeliness in responding satisfactorily to clients' inquiries and requests, and the

status, nature and effectiveness of their responses/outcomes.

To achieve high levels both of client-satisfaction and of employee satisfaction, the ODPP, and the MPS generally, must move from a passive and reactive mind-set (e.g., waiting for employees or clients to call/complain) towards a proactive and strategic marketing and client relationship framework (e.g., reaching out to clients periodically). This includes an effective communication strategy and programmes of recognition/rewards for each category of customer as well as for excellent service providers and high performance employees/contractors.

89. Budget adequately for maintenance and training. The DPP should continue to liaise with the GOM, the MOFEM, and the HRMU, which, along with partners such as the CARICOM, the DFID, and the CDB, can assist in co-ordinating these activities for the ODPP and across the judicial system, including targeted grants and low cost loan programmes. All of the judicial vehicles, equipment and premises need regular maintenance for high performance. Likewise, every employee needs a strategic skills enhancement programme (e.g., set an annual minimum for the number of hours of training per employee) and a career building plan (developed collaboratively with tangible milestones and outcomes, and revised at least annually). In view of its serious under-funding year after year, the ODPP certainly requires a much higher internal budgetary allocation for staff development and professional training.

90. Review compensation and benefits. The DPP should liaise with the MOFEM and the HRMU to document rigorously the needs of the ODPP and to build robust business cases to support the necessary funding for adequate staffing of the department. In order to provide high standards of service, hiring must be done more expeditiously and effectively to eliminate the protracted internal and interdepartmental delays (e.g., between HRMU and ODPP) that cause qualified candidates to be lost through slow recruitment processes and/or not retained for the long term. This also requires a comprehensive benchmarking of qualifications, experience levels, skill sets, emoluments, perquisites, and allowances, in line with regional ranges, U.K. and the other UK Overseas Territories' norms, and international best practices. To attract and, more importantly, to keep the best talent requires a strategic approach to optimising each element of the employee's experience: pre-arrival, at the workplace, and outside of the workplace in daily life.

91. Advocate for more Magistrates, Senior/Crown Counsels, etc. The DPP could advance a suitable business case with the MOFEM and the HRMU to advocate for the added posts that are needed. Despite the title of Chief Magistrate, there is only one judge on the island. This is obviously inadequate, both to handle the growing number and complexity of cases in established areas of law, and, moreso, to handle effectively and efficiently the additional case-load from new types of law and new types of legal cases (e.g., juvenile justice; anti-money laundering; counter terrorism). Likewise, the number of Crown Counsels, certified investigators, forensic auditors, qualified tax inspectors, and Customs/financial specialists, for instance, must be increased in strategically planned phases over the next 2 to 5 years in line with the growing needs

of the judicial system. In the short term, temporary placements and secondments from other Commonwealth jurisdictions can relieve the growing backlog of criminal cases.

92. Apply more non-custodial sentences. It is recommended that the DPP, along with the Attorney General, magistrates, and other judicial partners, advocate for progressive judicial reforms, including following the trend in other Commonwealth jurisdictions of prescribing community service, personal development, educational programmes, and other productive activities (e.g., growing their food, making clothes, working on farms, cleaning and repairing public buildings, et cetera) rather than imprisonment. This will relieve the pressure on the costly and limited facilities on the island, while creating opportunities for the building of character, of skills, and of useful knowledge among convicts. This strategy will better serve the society's needs, reducing the net cost of crimes, while enhancing the convicts' social and economic skills, thus reducing the incidence of recidivism. Electronic tracking devices and GIS technologies can also be used effectively for the constant monitoring of accused persons (a) during periods of remand, (b) during periods of bail, and (c) post-sentencing.

93. Upskill and hire proactively. It is needful not only to increase the numbers of judicial officers in Montserrat, but also to hire/develop the new skill-sets required for 21st century jurisprudence. In the short term, the most effective approach is to hire those with the necessary expertise, qualifications, and experience for the emerging areas of law and public prosecutions. In the medium term to long term, the focus can switch to the development of those already within the judicial system.

CHAPTER 5: MANAGEMENT RESPONSE

The overall assessment of the ODPPP seems fair. In some respects though, I think that there is some lack of clarity as to the role of the ODPP and that of the Police and the Judiciary. Three separate entities, all with different roles, which affect each other.

Careful scrutiny must give to what indeed is the role of the DPP and what omissions were made by the ODPP as opposed to what affects the Department. There was some blurring of the lines in that regard.

We welcome the report and, more importantly, the recommendations since, in my view, these can be used to positive effect.

CHAPTER 6: OVERALL CONCLUSION

(a) Limited use of electronic data & reporting. A modern judicial system requires (1) electronic transcripts of all court sessions, (2) scanning of documents, and (3) electronic communication, data, transmission, and storage. However, the ODPP and the judicial system in Montserrat continue in excessive use of paper, physical delivery, and manual processes. All workers need periodic refresher sessions to polish skills and to share lessons learnt and best practices. Better formats will support better and faster reporting and improved decision making and communication within and between Departments, and with other stakeholders.

(b) Health & safety policies are inadequate. Policies and emergency plans must be reviewed regularly, communicated to all stakeholders, and rehearsed at least annually. To minimise absence days and healthcare costs, the Department must focus on employee education, on prevention of illness, and on providing an ecosystem that (1) nurtures a culture of wellness, including better menus/dietary habits, (2) adopts safer office/cleaning products, (3) improves indoor air quality, and (4) promotes, recognises, and rewards wiser workplace habits and healthier lifestyle choices. This is an investment in human capital with very high returns.

(c) Strategic development programmes are of paramount importance. The ODPP has been understaffed since its inception in year 2010. To be effective, the staff's skills require significant upgrades both in traditional areas and in recent laws and emerging topics.

(d) Inadequate infrastructure. The ODPP needs more storage capacity and modern security systems for files, for other assets and for personnel. The department has, for far too long, reported various unsatisfactory conditions. Repairs and maintenance are frequently delayed.

(e) Under-used technologies. Too many instances remain where available low-cost approaches are not employed, and/or existing technologies, modalities, and payment methods are readily feasible, but they are not being utilised fully or at all. Besides improving services to the public, these will help to reduce the time that employees, members of the public, and other stakeholders often take from work hours to do banking, bill payments, and other business.

(f) Great opportunities. Green business is vital for the growth of Montserrat's economy generally. By extension, a paradigm of personal wellness and workplace ergonomics will contribute to the national vision of "A Healthy and Wholesome Montserrat". High levels of employees' attendance, satisfaction, and performance will (1) greatly improve public services, (2) increase efficiency, (3) reduce long term healthcare and other risks and costs, and (4) redound to the benefit of all residents and visitors. Thereby, GOM's national SDP goals of economic prosperity, security, and population growth will be easier to achieve and to sustain.

APPENDIX 1: OFFICE OF THE AUDITOR GENERAL

Functions

By force of *The Montserrat Constitution Order 2010*, the OAG is established and upheld in its independence and in its functions within the public sector of Montserrat. The relevant section states as follows below:

Functions of Auditor-General

103.—(1) **The Auditor General shall audit and report on the public accounts of Montserrat and of all public offices, including the courts, the central and local government administrations, universities and higher education institutions, and any public corporations or other bodies or organisations established by an Act of the Legislature, and may conduct financial and value for money audits in respect of any project involving public funds.**

(2) The Auditor General shall submit to the Legislative Assembly **annually a report** of the accounts audited by him or her under subsection (1) for the immediately preceding financial year.

(3) For the purposes of subsection (1) the **Auditor General and any person authorised by him or her shall have a right of access at all reasonable times to all such documents as appear to him or her to be necessary for the purposes of the audit**, and shall be entitled to require from any person holding or accountable for any such documents such information and explanation as he or she thinks necessary for those purposes.

(4) In the exercise of his or her functions, the Auditor General shall **not be subject to the direction or control of any other person or authority**.

The independence of both (a) the functioning of the Auditor General and (b) the budgetary allocations from the Government's national Consolidated Fund to finance the Office of the Auditor General are clearly stated and emphatically declared as follows below:

National Audit Office

104.—(1) The Legislature shall by law make provision for the establishment of an **independent** National Audit Office headed by the Auditor General.

(2) **The budget** for the National Audit Office shall be charged on and paid out of the Consolidated Fund, and **must at all times be adequate to enable the full performance of the functions** conferred on the Auditor General by this Constitution or any other law.

(3) The accounts of the National Audit Office shall be audited and reported on by an auditor appointed by the Legislative Assembly.

In line with international standards for public-sector auditors and global best practices for Supreme Audit Authorities, the O.A.G. of Montserrat espouses the following values and priorities:

Our Values

Respect. We seek to build productive professional associations and cordial personal working relationships with colleagues internally as well as with other public servants externally.

Honesty. We tell the truth even when it is unpleasant or embarrassing. Accurate self-assessment is vital for every person and for every unit of Government to acknowledge its strengths and its weaknesses, and to begin to address performance-gaps and shortfalls from relevant policies, from applicable standards, and from currently binding laws and regulations.

Transparency. Our work is in the service of the Government and the people of Montserrat. Therefore, all of our final reports on engagements undertaken are made available to all stakeholders, to the public and to any other interested parties via publication on our website.

Confidentiality. In the course of our duties, we protect the identity of all persons who reveal secret information or private details. Our reports disclose general conclusions and focus on practicable solutions rather than highlighting any person or department directly.

Accountability. By definition, the work of the O.A.G. is to hold accountable all public-sector Ministries, Departments, agencies, public-private partnerships, and State-owned enterprises. In turn, we are accountable (a) to colleagues through quality-control procedures and through peer-review, (b) to local, regional and multinational professional accounting and auditing bodies, and (c) to global standards-setting bodies. Finally, the O.A.G. itself is subject to annual audits by an independent external audit-firm of the highest repute.

Objectivity. Auditors must remain impartial, devoid of partisan bias, without membership of political parties, and otherwise focused on the truth and the facts, rather than personal opinions, emotions, or self-interest. All of our analyses, conclusions and recommendations are based on facts and verifiable and auditable evidence, supported by retained audit-papers and work-in-progress files throughout each and every audit-engagement. Information is gathered solely for the purposes of the official audit and never to be used for personal advantage of either the auditors themselves or of any other person, party, entity, or enterprise.

Independence. Vitally important to the respectability of the O.A.G. is the independence of the Auditor-General and of his/her staff both in appearance and in fact, both in public discourse and in social intercourse. Auditors must avoid any potentially compromising personal relationships or business activities with any public-sector auditee. Where he/she has (i) any material private indirect interest and/or (ii) any direct financial or other interest in an auditee and/or (iii) in or with any of its employees, suppliers, investors, creditors, or other related parties, an auditor must either refrain from any part of an audit of such entity and/or disclose the nature and the extent of such actually or potentially compromising interest whatsoever it be.

APPENDIX 2: KEY REFERENCES

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APPENDIX 3: TERMINOLOGY

Efficiency. Efficiency is measured as the ratio of inputs per given or desired unit of output. The performance-goal is to minimise inputs and/or input-costs per unit of output.

Productivity. Productivity is measured as the ratio of actual units of output per given unit of each input. The performance-goal is to maximise output per unit of each input.

Effectiveness. Effectiveness is measured as the ratio of actual units/costs of all outputs to the desired units/costs of output. The performance-goal is to minimise gaps between desired output(s) and actual output(s), subject to the desired quality of that output.

Value for money. This is the *desired surplus and/or value of benefits* derived from actual output(s), deliverable(s), or outcome(s). It is measured as the consumer's utility or economic surplus: i. e., (1) the actual (and/or user-perceived) value of all benefits of each unit of output, minus (2) the actual costs per unit of each input required to produce and to enjoy the benefits of that unit of output. The performance-goal is to maximise the total value of incremental benefits (minus marginal costs) derived from all units of output (e. g., public services or public goods), subject to the desired quality of that output, and to any applicable standards, regulations, contractual obligations, client-service objectives, or legal requirements.

Performance. This concept defines observable behaviours in respect of a specified function or activity. In practical terms, performance is measured as the comparison of *ex post* actual outcomes with *a priori* desired or pre-agreed outcomes. This lends itself very well to objective definition, measurement, monitoring, reporting, feedback, and recommendations for improvement, wherever gaps are identified between (a) desired behaviours and outcomes and (b) actual behaviours and outcomes. Learning, for instance, is measured by improved behaviours.

Performance audits. Performance-audits are objective, external, and independent reviews of activities, processes, organisations, financial statements, and/or other objects of interest, having explicit regard to such parameters as (i) applicable laws, (ii) external regulations, (iii) internal policies, (iv) internal rules, (v) international treaties, (vi) bilateral or multilateral agreements, (vii) industrial benchmarks, (viii) contracts, (ix) codes of conduct, (xi) ethics, (xii) morals, and/or (xiii) professional standards. Performance-audits go well beyond (1) *financial audits* and (2) *internal audits*, for instance, to examine the actual, observable, and measurable behaviours, outputs, efficiency, effectiveness, and value for money of an entity, a programme, an agency, a statutory corporation, or an entire public sector, as the case might be. In this regard, performance-auditing is inherently more far-reaching, more strategic, and more consultative than other types of audit. When it is well executed by the auditor(s), and when, thereafter, its findings are wisely attended and its recommendations expeditiously implemented, a performance-audit in the public sector has the potential to offer the greatest value for money to the Government and, ultimately, to the people of Montserrat. In short, it pays for itself many times over.

APPENDIX 4: AUDIT FIELDWORK

Questionnaire for Interviewees

Senior GOM Interviewees & Correspondents

- (1) Registrar, Registration Department, Supreme Court of Montserrat
- (2) Director of Public Prosecutions
- (3) Attorney General
- (4) Chief Magistrate
- (5) Deputy Commissioner, Police Service & Fire Department
- (6) Deputy Commissioner of Inland Revenue

Prior Survey of Public Sector Employees

During November 2017, to January 2018, we conducted a broad survey of public service employees across many units and departments. From the most recently available absence-monitoring reports that we had obtained for each Department, we designed a random sample of 95 employees for in-depth interviews from each participating Ministry and Department. This represented a planned sampling rate of 12.5% of co-operating Departments: 95 selected from reports representing headcount of 796 employees of an estimated MPS total of 983. This higher planned sampling rate was to compensate (a) for the randomly selected employees/Departments that did not participate/co-operate and (b) for the Departments that did not provide timely data at all or too late for them to be included in the random sampling. Our objective was to achieve 50 to 100 interviews (i.e., 5% to 10% of all public-sector employees).

Ultimately, 72 actual interviews were completed and documented to enlighten the findings summarised in this audit-report and to support the many recommendations made in Chapters 3, 4 and 5. This represented an effective actual sampling rate of over 7% of the MPS total headcount. The sample characteristics proved to be highly representative of what is known about the population: e.g., by gender, by age-groups, by length of tenure, by types of employment-status (permanent vs. contracts), and by nationality/country of origin (e.g., the 2011 census found that 28% of residents were non-Montserratians).

Footnote: This study provided important findings and recommendations to complement the new findings of the review of the ODPP and the judicial system in Montserrat.