

The Launch of “Criminal Procedure Rules (2021)” in the Turks & Caicos Islands

Good morning Chief Justice and good morning to all present who individually and collectively contribute so much to these Islands within the justice system but also far wider than that.

I apologise that I can only join you to make these remarks, but was determined to do so, having stepped out of a Conference that I am hosting here.

With that apology made I cannot tell you how pleased I am to be part of this historic event and I start by placing the change we are marking today into a wider context by congratulating the Chief Justice for the momentum she has developed in reforming, with her colleagues, our justice system.

In a very precise and real world sense, having visited the Prison last week and met so many Prisoners there on remand, I can see – as a layman in these matters – just how important it is to have an efficient system that can deliver a just outcome, at pace, and in it is in that very practical sense – and in every other sense in terms of the rights of the victim and the defendant – that I applaud this change in the delivery of justice introducing transparent, codified ‘Criminal Procedure Rules’ in the Turks and Caicos Islands.

These Criminal Procedure Rules mark, as I understand it, the beginning of improved practice and procedure of criminal justice in all our courts. I understand that these Rules aid in the delivery of the Judiciary’s mandate to deal with criminal cases justly and expeditiously. They corral previously scattered (and sometimes undocumented) practice and procedure into one comprehensive document. This provides uniformity and certainty regarding how matters will be dealt with by various stakeholders in the criminal justice system.

It would seem to me, as quite possibly the least qualified person on these matters, at this gathering of legal talent and experience, to be a reassuring thing to know that all stakeholders, be they judicial officers, attorneys and defendants who are brought before the court, now have a first port of call for knowing how the matter will proceed. This provides I assume not only a degree of certainty, but also, some reassurance that the matters will not be subject to arbitrary practice. All stakeholders will have the security of codified timelines.

I also understand that these Rules transfer to the court, that is, to the Judge or the Magistrate, control of the proceedings, including the responsibility of ensuring that timelines are kept. The Judge or Magistrate is now the ‘manager’ not just of the law in the matter before him or her, but

also, the manager of the parties in the proceedings. In this role, parties are made accountable to the Judge or Magistrate who is empowered to sanction those who fall outside of these published procedures.

The Rules also introduce the work of a Case Progression Officer who is responsible for actively monitoring and following up on scheduling orders, and keeping cases moving on a timely basis. The person is also given the responsibility of reviewing on a regular basis, all pending cases, to ensure that proper notifications are given, and other necessary actions taken.

The creation also, of a Defence Statement in these Rules will, I am informed, prevent the 'ambush defence' as has happened in other jurisdictions with Rules similar to ours. The adversarial battle of the criminal trial has now been replaced with each party knowing the 'real issues' to be tried which can only save on court room time and resources.

This development, along with other requirements regarding disclosure by both the prosecution and defence, will ensure that the court, the Prosecution and Defence, are made accountable to one other, and ultimately to the Turks and Caicos Islands public that they serve.

There are other innovations to criminal justice and benefits provided by these Rules, which I am sure the legal minds will speak to. It suffices for me to say, that these Rules are a welcome intervention in criminal justice delivery.

In England and Wales, Criminal Procedure Rules similar to our present Rules, have been in force since 2005 or shortly thereafter, and it is my understanding, that they have helped to change the complexion of the criminal justice system in the United Kingdom.

Regional judiciaries have implemented Criminal Procedure Rules with similar successes. In Trinidad and Tobago, for example, the Rules were launched in 2017, in St Lucia, part of the Eastern Caribbean Court, in 2015. Feedback from these jurisdictions on the impact of these Rules has been overwhelmingly positive. Case management is now a transparent process, matters are moving through the court more quickly as all stakeholders in a trial are now in sync (as common parlance goes), with one another.

I'm therefore proud to see our Judiciary move forward in this way and I am honored to be a part of this historic development in our legal and judicial system, driven forward by our Chief Justice and her appointed Technical Team who drafted these Rules, with input from the Attorney General's Chambers within the overall progressive Justice Strategy that you, the stakeholders in Justice in this Jurisdiction, have so encouragingly embraced.

Thank you.