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AUGUST 2021, ISSUE 1

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# JUSTICIA

*Created under the patronage of the Turks and Caicos  
Islands' Criminal Justice Stakeholder Group*

## LETTER FROM THE EDITOR IN CHIEF

*Optimism: a New Day and Beginning is here*

Welcome to the first edition of the quarterly newsletter, Justicia!

This Newsletter is created under the patronage of the Criminal Justice Stakeholders' Group (CJSG) as a platform to engage you, the public, on the work of the Turks and Caicos Islands' justice system. We hope that this Newsletter helps lift the veil that seems to shroud our work so that you are informed of our progress (and challenges).

In this edition, there are articles from each of the CJSG stakeholders: the Judiciary, the Attorney General's Chambers, the Office of the Director of Public Prosecutions, the Police, HM Prisons, the Department of Social Development and the Bar Association. Our theme for this quarter is "Optimism", as we strive to serve you in the face of and despite the relentless and seemingly endless COVID-19 pandemic. Each article sets out that institution's vision to serve the TCI in the face of these adversities.

There are also articles from practitioners within the justice system on topical issues and a 'Reader's and Writer's Nook' for your reading pleasure. We thank all the contributors for the engaging pieces and look forward to what is to come.

Enjoy.

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AUGUST 2021, ISSUE 1

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# TABLE OF CONTENTS

*Pages 01-02 - The Judiciary*

*Pages 03-05 - The Attorney General's Chambers*

*Pages 06-08 - The Office of the Director of Public Prosecutions*

*Pages 09-10 - The Royal Turks and Caicos Islands Police Force*

*Pages 11- 14 - The Departement of Corrections and Rehabilittion*

*Pages 15-16 - The Bar Association*

*Pages 17-19 - The Department of Social Development*

*Pages 20 - 21 - Justice in the Covid-19 Era: A Practitioner's Perspective*

*Pages 22 - 24 - Letter to the Editor: Judge Alone Trials in the TCI*

*Page 25 - Reader's and Writer's Nook*

# THE JUDICIARY

*The Turks and Caicos Islands Judiciary has a new vision statement: providing access to quality justice.*

This statement was developed in 2020, deep in the midst of the COVID pandemic and has been the Chief Justice's beacon while navigating the judiciary forward to continuously improve the access to and quality of the service the judiciary delivers.

## ACCESS TO JUSTICE

### 1/ Legal and Physical Infrastructure

To improve access to justice during this pandemic, in terms of getting a dispute or application heard before a judge or magistrate, the judiciary has bolstered its legal framework and amended its physical infrastructure. The legal framework comes in the form of the new Court Live Link (Remote Participation) Ordinance 2020, which provides the statutory underpinning for the court to conduct remote business, as well as the Chief Justice's Practice Direction 6, which preserves the discretion of the Court to conduct remote business or a hybrid of remote and in-person business, to accommodate remote access to the Court in this unprecedented time. The physical infrastructure of the court has been made now 'COVID friendly' by installing plexiglass shields to protect court users and HEPA filters to sanitise the air.

The judiciary plans to continue to improve access by having dedicated Magistrate's Courts in North and South Caicos. The communities on these islands may look forward to having their judicial intervention needs met at their doorstep, and will no longer need to get on a boat or a plane to seek help.

What about access to jury trials? The public probably knows these stopped for a year due to the pandemic. Under the leadership of our Chief Justice, after a lot of planning to create the statutory framework (including the above mentioned Court Live Link Ordinance, wide ranging amendments to the Jury Ordinance and the promulgation of Practice Direction 5) and large investment in infrastructure (such as cameras and TV screens in the jury court rooms and the remote jury rooms), jury trials can now be conducted in a COVID friendly environment. The road map of the procedure to select the jury through to the conduct of the jury trial is set out in the Chief Justice's Practice Direction 5. The first two jury trials: one in Grand Turk before Justice Aziz and other in Providenciales before Justice Lobban-Jackson both began at the start of the court's second term on 12 April. The jury trials are also being livestreamed over the Judiciary's Facebook Page: Judiciary of the Turks and Caicos Islands.

*Jury trials are  
being livestreamed  
over the  
Judiciary's  
Facebook page*



# The Judiciary, cont'd

*The Turks and Caicos Islands Judiciary has a new vision statement: providing access to quality justice.*

## 2/ Legal Aid Rules

We all know that justice is expensive. Sometimes access to justice is prohibitively expensive, and the most vivid example is in the case where one's liberty is in jeopardy with no way to pay for a lawyer privately. The Chief Justice has promulgated new legal aid rules (Legal Aid Rules 2020). The hope and expectation for this new legal aid regime is that it provides properly for the poor in our community but is properly regulated to reduce or avoid abuse.

## 3/ Publication of judgments and rulings

Access to justice has also been improved with the launch of TCI-LII in November 2020, which makes the rulings and judgments of the court immediately accessible as the decisions are published. This legal resource provides free access to the decisions of TCI's courts of record to both local and international researchers. It will also improve the courts' work and our jurisprudence, as binding decisions are followed by lower courts and the quality of judgments is enriched.

## QUALITY OF JUSTICE

### 1/ Vulnerable witnesses

How does the judiciary intend to improve the quality of the justice delivered? One of the ways is to improve the court user's experience with the court. The judiciary is moving towards becoming a more humane institution. With the introduction of the Vulnerable Witnesses Ordinance, an area that was neglected for a very long time in criminal justice (i.e. the plight of vulnerable witnesses in trials), the judiciary has provided a dedicated room for vulnerable witnesses in Grand Turk and a dual-purpose room in the Supreme Court, Providenciales, to cater for such witnesses in line with the legislation.

Other flagship projects for 2021-22 to improve the quality of justice are:

### 2/ Court-Connected Mediation.

The Chief Justice is in the early stages of turning this into a reality for the judiciary. The expectation is that those seeking the court's assistance need not be subjected to the adversarial courtroom. Mediation may help protect relationships. In time, the judiciary's vision is that this will also provide, in the proper case, for restorative victim/offender justice in criminal justice.



### 3/ E-Judiciary

The vision is to turn the judiciary into a paperless court. The judiciary has already retained a service provider which is highly regarded throughout the Caribbean. With electronic filing and electronic tracking of proceedings, the judiciary can produce more accurate statistics, which improves our accountability to the public and will reveal where we can improve our quality.

### 4/ Civil Procedure Rules and Criminal Procedure Rules

New rules for civil procedure and criminal procedure are imminent. With the implementation of these rules, the court will have more control over the process and the speed of progress of cases. The expectation is that, as seen in many other Commonwealth jurisdictions where procedure rules have been implemented, the speed and quality of justice delivery will improve.

Under the leadership of our Chief Justice, the judiciary commits to continue to strive to meet its vision statement and continue to improve its service to the public.

Contributed by:

The Law Clerk to the Chief Justice

# THE ATTORNEY GENERAL'S CHAMBERS

## *A Key player in Good Administration*

This article covers the vision, mission and strategic priorities of the legal department of the Attorney General's Chambers ("the Chambers"). The Chambers operates as a team based on mutual trust, support and respect in delivering quality, timely and solutions' oriented legal services to the Government of the Turks and Caicos Islands.

### **Vision**

Ever mindful of the need to protect the public interest and safeguard and preserve the Constitution and the fundamental rights and freedoms it enshrines, the Chambers works to uphold the traditions and high standards of equity, fairness, and justice.

### Four subdivisions

The Chambers is divided into four areas of work: **Civil Litigation** provides legal advice and opinions and represents the Government in all litigation. **Commercial** drafts or negotiates contracts on behalf of the Government. **International** deals with and advises on the consequences of treaties and conventions for domestic legislation. **Legislative Drafting** addresses the Government's legislative drafting priorities and ensures timely publication of laws.

### **Professional development and succession planning**

A key staffing objective is to provide career opportunities for Turks and Caicos Islanders by developing and maintaining skills on a continuing basis through on the job training, external attachments and training opportunities.

### **Integrity and fairness**

As public servants supporting the government of the day with impartiality and professionalism; no matter what its political complexion, the Chambers is committed to respecting the rule of law and upholding the highest standards of integrity and fairness.

### **Mission**

The mission of the Chambers is to –

- support the branches of government in working to ensure that the Turks and Caicos Islands is a just and law-abiding society with an accessible, efficient and fair system of justice;
- provide high-quality legal services and advice to government and its agencies – the range of legal services provided by the Chambers is vast and goes well beyond traditional legal advice, litigation and legislative drafting, though these remain as important as ever.
- promote respect for rights and freedoms, the law and the Constitution.

*...the Chambers  
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and justice.*



# The AG's Chambers, cont'd

Part 2/3

*2020/21 strategic priorities report card*

## 2020/21 strategic priorities report card

In 2020 the TCI, like the rest of the global community, was faced with the Covid-19 pandemic, which brought many things to a standstill, but ushered in the development of methods to ensure continuity of service. During the lockdown period, which started in March 2020, the legal staff of Chambers faced a heavier workload but continued to work diligently with the support of the administrative staff. In reviewing the strategic priorities achieved or progressed in 2020/21, progress was noted in areas central to the core work of the Chambers:

- The physical system for the central filing system was installed in the filing room in March 2019, and the digital scanning of hard copy files is now at 40% completion.
- A cataloguing system was acquired for the law library, and one staff member was fully trained in its operation, with others trained about 30%. The training of the remaining staff was delayed due to COVID-19. The cataloguing of records is completed, but a review of the classification is needed to determine the location of specific books in the library.
- Work on the Anti-Money Laundering (AML) structure was completed and approved by Cabinet. Terms of Reference for the Counter-proliferation Financing Focus Group were drafted and approved by the AMLC. Guidelines for Making Requests for Financial Assistance/Funding from National Forfeiture Fund have been drafted and is being considered by the AMLC.
- 2020/2021 saw the introduction of Financial Sanctions Notices (FSNs). Seminars were held on 'Anti-Money laundering and Combatting of the Financing of Terrorism Sensitization' virtually with all law enforcement agencies (LEAs) in the TCI.
- In September 2020, the TCI attended the Financial Crimes Technical Working Group Training and attended and presented the TCI's Asset Recovery regime. During a three-day training led by RSS-ARU and CFATF in October 2020/22, TCI delegates attended a Proliferation Training led by Royal United Services Institute in March 2021. These seminars were well received.
- To increase knowledge, Counsel have also attended various webinars hosted by the Financial Action Task Force (FATF), covering a range of issues regarding money laundering/Terrorism finance and the Proliferation of weapons of mass destruction (ML/TF & PF).

- Working with the Revenue Control Unit, the Chambers undertook ten debt claims under the Hotel and Tourism Taxation Ordinance. Out of that number, two were successfully negotiated by compromise settlement agreements and six others resulted in filed court claims. Two such claims were fully paid under the Government's Amnesty Programme. Work in this area continues in the next financial year.
- The Chambers virtually conducted AML/CFT Training in September 2020 with all LEAs, a half-day session with the Hon. Chief Magistrate in October 2020 and in collaboration with the Office of the Director of Public Prosecutions, a three-day AML training session in November 2020.



# The AG's Chambers, cont'd

Part 3/3

Key Programme Strategies for 2021/22

## Key Programme Strategies for 2021/22

Aimed at improving programme performance, upcoming key strategic priorities focus on continuing work on the following ongoing programmes and initiatives:

- classification of law library books to verify their location. Due to a staff transfer, the AGC is looking to train 3 more staff members to create redundancy and improve efficiency and effectiveness;
- digitisation of the remaining 60% of legal files to provide ease of access and to recover from wear and tear through natural or man-made disasters;
- training, including –
  - a) drafting instructions and the development of further programmes to improve government departments' and statutory bodies' understanding of the legal obligations;
  - b) policy formulation, policy process, the legislative process and pre-and post-legislative scrutiny for members of the House of Assembly;
  - c) 'Decision Making, Discipline and Dismissal in the Public Sector and other governance areas;
  - d) FIDIC, Procurement and Drafting instructions on contracts;
  - e) drafting and preparing affidavits and witness statements;
  - f) training of Immigration Appeals Tribunal and Work Permit Board;
  - g) recommendations from the Caribbean Financial Action Task Force Mutual Evaluation report to public and private sector stakeholders; and
  - h) employment contracts.
- enforcement and recovery actions to reduce outstanding debt and assist in increasing compliance and revenue collection.
- assist key stakeholders to better implement the FATF Standards, including creating and updating policies, guidance and manuals.

Contributed by:

Honourable Rhondalee Knowles, OBE, QC  
Attorney General

*Aimed at  
improving  
programme  
performance,  
upcoming key  
strategic priorities  
focus on  
continuing work  
on ... ongoing  
programmes and  
initiatives...*



# THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

## *Office of the Director of Public Prosecutions and Covid -19 Pandemic*

### Introduction

1. The Covid-19 Pandemic is arguably the world's most devastating public health crisis in recent times. It radically and globally changed much of how we live and operate as individuals and corporate entities. This article briefly narrates the experiences of the Office of the Director of Public Prosecutions (ODPP) and its staff in a Covid-19 era and environment. It looks at the operational and institutional challenges associated with the Pandemic and how the ODPP managed these challenges. Ironically, the Pandemic also came with a silver lining, not least because it forced out of us ideas of new and better ways of living and operating. This article also highlights these positives and the ODPP's efforts to maximize them.



### COVID-19 Challenges and ODPP Response

2. The proclamation of a State of Public Emergency and the Emergency Regulations made thereunder saw the national lock-down in March 2020. However, the operations of the Court and the ODPP were, among others, considered essential services, primarily because the Emergency Regulations would have to be robustly implemented, including the arrest and prosecution of offenders.

3. Accordingly, the ODPP, the Courts (and needless to say the Law Enforcement Agencies, including the Police, Immigration and Customs, etc.) were inescapably open for business within the framework of the State of Emergency, and the relevant Supreme Court Practice Directions made in response.

4. Having no finalized ODPP Business Continuity Plan (BCP) in place, the DPP instead issued Operational Directives. The first of these Directives, among other things, enabled adjustments to our operations to meet exigent Court commitments while complying with the curfew and other requirements of the Emergency Regulations. This was to be the 'new normal' and necessitated the following adjustments:

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## The ODPP, part 2/3

*This was to be the 'new normal' and necessitated the following adjustments:*

- Identifying and rostering 'On Call' Prosecutors to deal with emergency Court matters remotely from home or physically if required by Court. The Admin Staff members were similarly rostered.
- Ensuring that every staff member was equipped with a computing device at home and able to communicate by email, ODPP Whatsapp Group Chat, Zoom, or Team platforms.
- Providing to and received from Court points of contact and specific contact particulars. The same was done with the Police and other Law Enforcement Agencies (LEA).
- Dedicating two Prosecutors to identify the offences and prepare template charges of those offences under the Emergency Regulations (as they were frequently issued or revised) and advise the Police and LEA accordingly. This was particularly helpful to the Police.
- Holding weekly staff meetings remotely, initially for safety and wellness roll calls but later included updates on matters relevant to ODPP's Operations.

5. Operational Directive No 2. was issued following Supreme Court Practice Directions No 3. The primary feature of this Operational Directive was to place every Prosecutor 'on call' in anticipation of increased activities of the Court remotely.

6. Following the lock-down and phased reopening, the ODPP continued to follow relevant instructions and Ministry of Health advisories. Staff attendance to the office was staggered for the Administrative Staff. Prosecutors had a choice of working from home or office provided there were no more than four staff members in the office at any given time.

7. The ODPP, the Judiciary, and other Criminal Justice Stakeholders remained open for business, in one form or the other, to ensure the wheel of justice did not ground to a halt. However, a critical and significant part of their work – Jury Trials – was severely hampered, indeed grounded. The result is the current backlog of criminal matters and many persons in custody awaiting trials – a phenomenon not unique to TCI but is of global proportion.

Resumption of Jury Trials and Normal Public Services

8. On April 12, 2021, Jury trials resumed, and the ODPP has committed to robustly play its vital role in the shared resolve to clear the backlog of cases which has involved back-to-back criminal trials. Moreover, the TCI public service, effective April 12, 2021, also resumed regular full service. This permitted all ODPP staff's attendance, but continued adherence to Ministry of Health Covid-19 related Regulations and Protocols, including vaccination of staff and weekly Covid-19 testing for those not vaccinated. A register is updated and maintained for this purpose.

Covid-19 Direct Impact

9. Needless to say, the COVID-19 challenges have sorely tested and still testing the ODPP and its staff in several ways. Two staff members were infected but quickly recovered. Of course, there were other scary moments of suspected exposures to covid-19 that either caused the staff concerned to be quarantined and or caused the ODPP offices to be closed temporarily for deep cleaning. The unexpected Covid-19 related deaths of some staff close family members have been particularly heart-breaking with negative impact, although temporarily, on the operations of ODPP.



## The ODPP, part 3/3

### *The Silver Lining of Covid -19*

10. The challenges of covid-19 came with a silver lining. It created 'new normal' opportunities to be more creative, effective, and efficient in ways not previously contemplated. Virtual Court proceedings became the new normal, but not before it faced a stiff but unsuccessful legal challenge in *Michael Missick & Ors v AG CL 12/2021*. Its endorsement by the Privy Council paved the way for other unprecedented and innovative ways to administer criminal justice in a covid-19 environment. Trial by Jury, for example, commenced in a hybrid format of in-person and by video links, with a consequent reconfiguration of Court facilities and infrastructure.

11. Covid-19 restrictions heightened the necessity for and the pursuit of a paperless criminal justice system. This, in turn, underpins the proposed digitalization project of the Criminal Justice Stakeholders Group and the Judiciary e-filing project. These initiatives have enormous implications for the operations of ODPP, facilitating, for example, the capacity for ODPP, the Police, and other LEA to scan and share case files and other documents electronically and securely between themselves.

12. The high point of the blessings of Covid -19 for ODPP is the ironic opportunity it provided the ODPP staff to gainfully participate virtually in several professional and personal development training opportunities with minimal logistical interruptions to their work, and more importantly, with the least or no charge to public funds.

#### Conclusion

13. The Covid-19 Pandemic radically and irreversibly changed the way we live and operate. Whether Covid-19 stays or disappears eventually, the experience of living in and through it has made us better, wiser, and stronger Prosecutors and as key stakeholders in the Criminal Justice system.

Contributed by:

Eugene Otuonye, Q.C.

Director of Public Prosecutions



# THE ROYAL TURKS AND CAICOS ISLANDS POLICE FORCE

*RT&CIPF Strategic Policing Plan for the next three years*

I am proud and privileged to lead the Royal Turks and Caicos Islands Police Force as the Commissioner of Police and to present the RT&CIPF Strategic Policing Plan for the next three years. This plan will drive the focus and direction of the Force in the way it delivers policing services across the Turks and Caicos Islands.

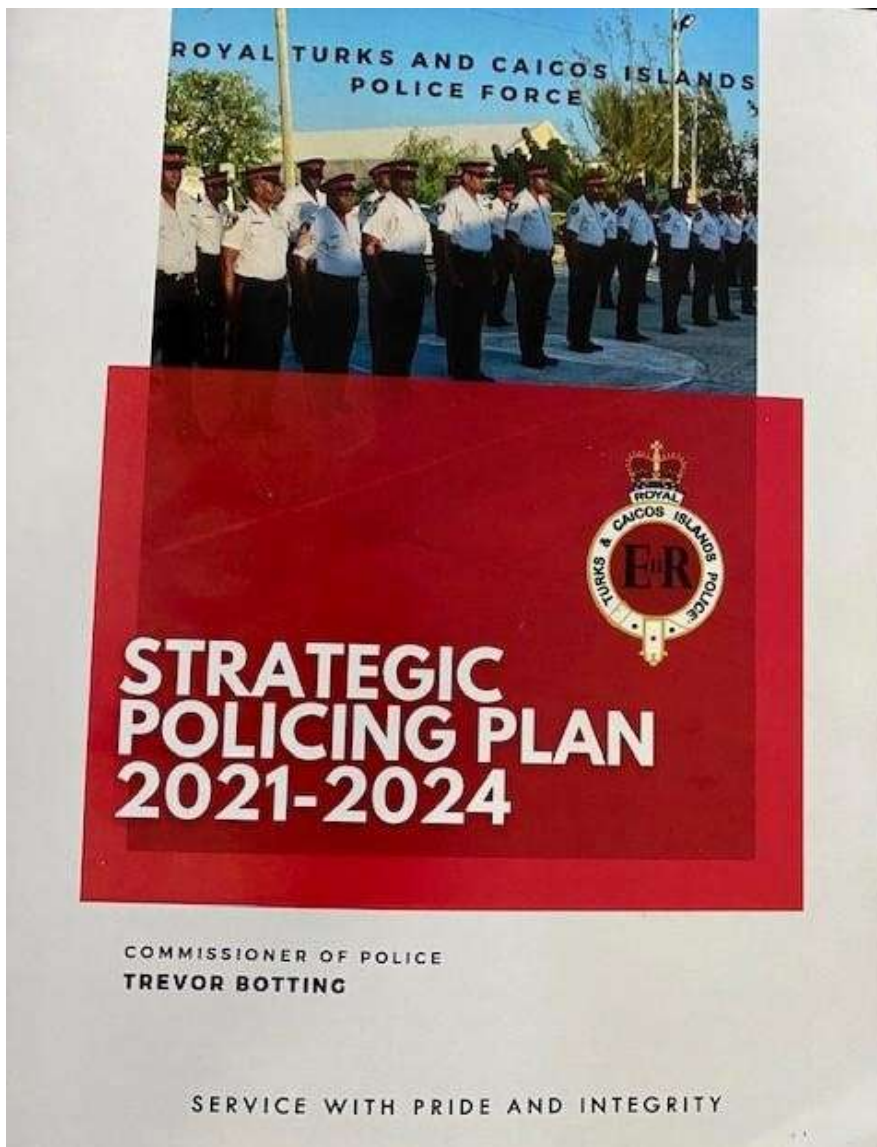
The five Strategic Objectives of the Strategic Policing Plan will underpin all we do in achieving our vision; 'To make the Turks and Caicos Islands a safe and secure country in which to visit, invest and live'.

This plan and the objectives will be supported by delivery plans and key performance indicators and these indicators are what will measure our success over the three year period. The Force is developing its capability and capacity and the plan will be reviewed annually to ensure it remains current and reflective of the policing needs of the Islands.

It is critical that the RT&CIPF works with national and international partners and this is reflected in our mission of 'Working in partnership, nationally, internationally and with our community to protect life and property, prevent and detect crime, and maintain the peace'.

A key group of partners are those who work within Criminal Justice and this partnership is drawn together through the Criminal Justice Stakeholders Group. Led by the Chief Justice, this group of senior Criminal Justice professionals is working together to deliver criminal justice service that best benefits the people of the Turks and Caicos Islands.

*Our vision; 'To make the Turks and Caicos Islands a safe and secure country in which to visit, invest and live'*



## The Police, cont'd

*Although overall crime continues a downward trajectory, there has been a worrying rise in serious crime*

Although overall crime continues a downward trajectory, there has been a worrying rise in serious crime, particularly violent crime. In response, the RT&CIPF will enhance its policing and seek to build trust and confidence in the Force through the introduction of community policing. This will be supported by a commitment from other Government agencies to work with the Force to enhance community safety and to build safer communities.

We will be investing in our staff to develop our leaders, enhance the service we provide to victims, witnesses and our communities and embrace diversity and difference within the Force and within our communities. In addition to developing the Force's human resources, we will be working to optimize technology to improve efficiency and processes in how we deliver our services.

In support of the National Security Strategy (NSS), there will be enhancement to the Border Protection arrangements for the Turks and Caicos Islands, with an increase in human resources, the procurement of additional vessels and greater collaboration with partners nationally, regionally and internationally.

Looking forward, there is much to be positive about and I am excited to be working with my senior team and all the officers and staff of the Royal Turks and Caicos Islands Police Force, our communities and our national and international partners 'to make the Turks and Caicos Islands a safe and secure country in which to visit, invest and live'.

Contributed by:  
Trevor Botting  
Commissioner of Police



*We will be investing in our staff to develop our leaders, enhance the service we provide to victims, witnesses and our communities and to embrace diversity and difference within the Force and within our communities.*

# THE DEPARTMENT OF CORRECTIONS AND REHABILITATION

*The Prison Service in The Turks and Caicos Islands takes its greatest leap forward as part of the Prisons 2023 programme. The service will transform to become the Department of Corrections and Rehabilitation in March 2021.*



Why? I hear you ask. The term prison service is synonymous with the building and the infrastructure.

The term is devoid of what we really do. Corrections (an American term) relates to, in the first instance, the need to correct for society, the transgression of the offender. Importantly the real substance of our business is and must be rehabilitation.

The challenges of Prison 2023 are centered on four pillars: Our People – Our Infrastructure – Our stakeholders – Our Services. This model encompasses everything that we intend to do to protect the public. Indeed, every part of the business of prisons will naturally fall into one of these pillars.

However, what is pivotal but often overlooked thereby forcing failure, is the support of the community.

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Infrastructure,  
Our Stakeholders,  
Our Services*

## Prisons 2023, Part 2/4

*What is pivotal and often overlooked, and in many countries forces failure, is the support of the community.*

Without community support, we fall at the first hurdle. The community is where all offenders emerge. The Community is where they all will return. The community will often support the “Corrections” aspect of our profession. What it may neglect to support is the concept of rehabilitation. This, in its rawest form, identifies that a prisoner has been Corrected and Rehabilitated.

What, however, is this all about? Why in many progressive countries is this vital, Rehabilitation element missing?

I spoke recently to an American, poolside, at a hotel in Miami. I questioned during our conversation why the greatest, richest country on earth fails to consider rehabilitation. As a nation, it extends some of the lengthiest sentences, has the most people per capita incarcerated, along with harsh prison environments. He could not get his head around the concept of preparing these individuals for eventual release.

That is common. And in my 37 years of prison experience, I have learned that it is to be expected unless there is government and community engagement.

How does TCI look to the world?

The tale they may tell may not be a tale that we would be proud of. Now is the time for us to collectively grasp this national nettle. We cannot be but concerned about the 2020 murder rate in TCI. Citizens will draw their conclusions as to why we have been gripped by such a “frightening” escalation of gun violence and may console themselves that on conviction for murder, offenders will receive a thirty year sentence. This may seem to deter individuals and satisfy the communities and the victim’s need for restitution.



## Prisons 2023, Part 3/4

### *What happens however during that 30 year period?*

Consider though, what happens, however, during that thirty-year period? To the offender, their family including children, wives, parents, and grandparents? What about the victim's young children growing up without a father, a wife widowed at an early age, parents and grandparents outliving their youngest family member?

We are all, as stakeholders in the Criminal Justice System, responsible. Some in a relatively swift way through policing and the courts. Some may be throughout their whole profession: potentially, a corrections officer may share their whole professional career alongside a prisoner serving a thirty-year sentence.

The interventions available to that corrections officer are incredibly significant. Every positive conversation that may positively influence is vital. Every encouragement and practical piece of advice or assistance is vital to building confidence and trust.

Rehabilitation can be described as baking a very complex cake with many contributors and many complex ingredients. The final success is dependent on all of these factors. If one element is missing or poorly developed, the cake will end up in the kitchen bin.



This metaphor cannot be lost on the agencies responsible for the successful integration back into TCI society of the most complex, troubled or violent offenders.

There is now the need for rehabilitation to be the responsibility of everyone. In particular, we need to look at all of the ingredients. They are numerous; and this article cannot attempt to cover the detail required. However parents have the responsibility to challenge children who begin to fall into offending behaviour. The police have a vital role to play and the Commissioner's community policing initiative is vital to intervene early, with those who can be diverted.

The Probation Service, although a fairly new service, is vital for the interventions that it can provide pre trial with the formulation of pre-sentencing reporting and then post - trial working with the prison service in order that sentence planning can be jointly formulated.

During the period of sentence, prisoners must engage with the rehabilitation process, in line with their individual sentence plan designed to address their Risks - Strengths - Needs profile. This, coupled with the nine established pathways, will ensure that successful rehabilitation and re-integration is possible.

*Rehabilitation can be described as the baking of a very complex cake with many contributors and many complex ingredients.*

# Prisons 2023, Part 4/4

*The responsibility for successful re- integration belongs to all of us.*

The responsibility for successful re-integration belongs to all of us. We must individually own it! Engagement with the community at large must be key to success. Employers must be content that they are employing an individual who has addressed their offending behaviours, is motivated to change and has the tools to succeed.

Covid-19 has brought many challenges to the country and the world at large. As we move into a recovery phase, we need to be aware that the challenges for departing prisoners remain even greater.

A vision for the future would be a Director of Rehabilitation within TCI. Their role: to provide a platform, enabling all stake holders to engage with a single purpose along with a single national blueprint that all the agencies can follow and understand.

This would give surety to decision makers, that community or custodial disposal has reoffending reduction through rehabilitation at its heart.

Contributed by:  
David Bowden  
Superintendent of Prisons, TCI





# THE BAR ASSOCIATION

*The 15th November 2022 will mark twenty-five years since the enactment of the Legal Profession Ordinance*

The 15th November 2022 will mark twenty-five years since the enactment of the Legal Profession Ordinance, which brought the Turks and Caicos Islands Bar Association and its governing Bar Council into existence. Since its inception, the Association continues to serve as the national voice of the TCI's legal profession. It is composed of every person admitted as an Attorney within the jurisdiction, sans persons subjected to limited admission under the Ordinance.



On the cusp of its silver jubilee, on the 10th April 2021, the Association elected an overwhelmingly indigenous Council, indicating a general desire to enter a new era in which there is a notable increase in the representation and participation of Turks and Caicos Islanders in the formation and leadership of the local legal profession. Elected to the 2021-2022 Council are Selwyn Hawkins (President), Sarah Knight (Vice-President), Tremmaine Harvey-Swann (Member), Kerchelle Bain (Member), and Desiree Downes (Attorney General's Appointed Member). All of the elected members of the Council are Turks and Caicos Islanders. The Council also appointed Chalsianna Misick and Shantae Francis as the Association's Secretary and Treasurer, both young and promising Turks and Caicos Islander Attorneys.

With an agenda premised on the empowerment of local attorneys and an emphasis on improving the representation and participation of attorneys who are Turks and Caicos Islanders, the newly elected Council has embarked on a series of initiatives that include but are not limited to: the formalization of a junior bar/young lawyers association; the formation of a women's association within the profession; the establishment of a Pro-Bono and Public Engagement Committee; the establishment of a Regional Practitioner's Committee; rebranding and marketing to showcase the diversity and strengths of the local profession; and the introduction of secondary and primary school programmes intended to promote among local students awareness of and interest in civil liberties, the law in general, and a future career within the legal profession.

*As 2022 rapidly approaches, the Council also realizes the need to and has committed itself to reassessing the purpose and mission of the Association and its enabling Ordinance ...*

As 2022 rapidly approaches, the Council also realizes the need to and has committed itself to reassess the purpose and mission of the Association and its enabling Ordinance. The assessment will be done with a particular interest in securing a mandate aimed at developing a profession in which Turks and Caicos Islander Attorneys are afforded the best opportunities to excel in their careers. Whether through further education, training, and/or qualification opportunities, and/or pursuing further legislative provisions aimed at securing fair, if not preferential treatment, and fair compensation of qualified Turks and Caicos Islander Attorneys in employment.

Persons wishing to engage further with the Bar Council and its work can do so by emailing the Secretary of the Bar Association at [secretary@tcibc.org](mailto:secretary@tcibc.org)

Contributed by:  
The Turks and Caicos Islands Bar Council



# The Department of Social Development

## *Objectives and vision of the DSD for the year and near future*

The overall objective of the Department of Social Development is “to assist those in need in becoming self-sufficient citizens within our communities, thereby reducing dependency on the state and ensuring the protection of the weak and vulnerable.” Our vision statement best encapsulates this.

### VISION STATEMENT

To become an institution that delivers quality service in promoting sustainable community and personal development, using international best practice, in a professional environment of collegiality and mutual accountability, everyone feels welcome and confident in their capacity to make a meaningful contribution.

In actualizing the vision, we recognise that the Department of Social Development plays a critical role in the lives of the people of the Turks and Caicos Islands. We are responsible for mitigating the many social ills that we are faced with, including poverty, teenage pregnancy, unemployment, underemployment, family dynamics/ relationships, abuse, neglect, abandonment, juvenile delinquency etc. It is said that DSD works with persons from the cradle to the grave, and we intend to continue to strive to elevate the lives of our clients. We have a bright year ahead of us with plans to strengthen our service delivery across the board by implementing key programs.

*To become an institution that delivers quality service, in the promotion of sustainable community and personal development, using international best practice, in a professional environment of collegiality and mutual accountability, where everyone feels welcome and is confident in their capacity to make a meaningful contribution. ,*

### OBJECTIVES

With the severe economic and social strain brought about by the pandemic, we emerge revitalized and ready to work with renewed vigour to ease some of the strain wrought by the pandemic. To do this we have strategized a number of objectives to improve our offerings as we go forward. It is our goal to provide continuity of care to our various communities through our services which fall under four pillars. To protect our staff and our clients we have been and will continue to exercise caution by utilizing alternative measures such as virtual training sessions, social distancing, video conferences and ongoing monitoring and support. We will also be implementing a Welfare Benefits Service Programme which provides financial assistance to clients who apply, provide supporting documents and qualify for the benefit by meeting the eligibility criteria. We are in the process of reviewing and updating the criteria to provide clear policy for operation in addition to increasing the weekly and monthly amount allocated to these services. This will be a great support to families who are struggling due to the effects of the pandemic. The objectives we will be striving to achieve as we in the upcoming year include:

1.Capacity building (Professional Development): this will involve holding sessions to provide ongoing professional development for our team by keeping them equipped with best practices and provide overall increased confidence in service delivery. The sessions will be held on a monthly to quarterly basis, face to face where possible and virtually. Topics will include both technical and soft skills training.



# The Department of Social Development Cont'd

## *Objectives and vision of the DSD for the year and near future*

A probationary schedule will be implemented for newly qualified Social Workers regarding receiving coaching, shadowing Senior Social Workers, and helping them feel what is required before allocating a full caseload of clients. Once newly qualified Social Workers undergo this training successfully, they will advance to a small caseload.

### 2. Strengthening our Foster Care and Adoption Programmes

Foster care and adoption have come a long way in terms of legislation, policy, and operating procedures within the Department, particularly the implementation of the Adoption Committee.

Children continue to require care and protection. Where children are removed from their home once significant harm is determined, it calls for the availability of persons in the community opening up their hearts and homes to a traumatized child. We will also be urging persons interested in fostering to apply to the Department and complete the background checks and home assessment (How do we apply?). The benefits to a child are long-lasting and impactful on their ability to cope and thrive in life. It is critical to ensure that children in care are provided with the same level of love, security and attention a parent would give to their child. To that end, we will support foster care parents as they care for children of the state with training on parenting techniques, disciplining, child abuse and neglect and helping children deal with trauma.

### 3. Fit Persons Order (FPO)

Each child that comes into care must be issued an FPO which legally places them with an identified family, which the Department approves of. It is our endeavour to ensure that these orders are valid, up to date and in place. There should be no children in care without a valid FPO. We are monitoring this area through a Database of regular checking by our Senior Managers in Client Intake Officers.

### 4. Children in Care being visited/seen

A great portion of our work involves fieldwork. This means conducting home, school and community visits with our children. Ensuring that we see our children in their home environment, speaking with them alone and doing therapeutic work with them as they grow and thrive. We want to ensure that timescales for visits are being met and keeping a record through a database on these visits, including documentation on clients' files.

### 5. Caseload management and Mandatory Monthly Supervision

Our Supervision Policy came into effect in 2017. This allows Managers to meet with their team members in a private safe environment and hear their challenges, critical areas where support is needed, and overall how they are balancing work –life. Both Manager and supervisee are accountable to each other and timescales are set for future sessions and assignments. These sessions are of the highest quality and are documented. It is important that Social Workers' caseloads are manageable and that the necessary work is being carried out.

### 6. Strategic Policy Implementation Plan

It is critical for our Department to have a written strategic plan which everyone is familiar with and are working together to accomplish these goals and objectives. This strategic plan will also have financial implications and will be monitored.

### 7. Vulnerable Population

The Department of Social Development in collaboration with DDME will be carrying out an assessment on the social vulnerability, based on community level data throughout the Turks and Caicos Islands. This assessment takes into account that individuals and communities have different levels of access to resources to prepare for, cope with and recover from a crisis. The Department currently has a working database of persons who fall within the vulnerability criteria. However, with the assistance from DDME, we would like to map where these persons are living within each community throughout the Turks and Caicos Islands. The finished map will be very effective for this year's hurricane season during the planning phase to determine and commence repositioning resources for those vulnerable populations.

# The Department of Social Development Cont'd

## *Objectives and vision of the DSD for the year and near future*

The DSD will also embark on a vigorous mission to sensitize and bring awareness to the general public on the implementation of existing Legislation and those that have recently come into force. This will enable the public to become familiarized with what is available to them and teach them how they can access it. We will be sensitizing the public on the Children Care and Protection Ordinance and Adoption (Amendment) Ordinances, the Family Law (Guardianship, Custody & Access) Ordinance, Status of Children Ordinance, and the Maintenance of Children Bill and Child Justice Bill which will hopefully soon be passed.

As we begin to rebound from the effects of the pandemic the DSD hopes to play its role in helping its clients to navigate their way to social and economic freedom through revitalizing our services. It is our hope that our social and legislative initiatives will leave our clients empowered to ultimately make the best of the opportunities the newly stimulated economy will provide.

Contributed by:

Mrs. Tiffany Thomas - Browne

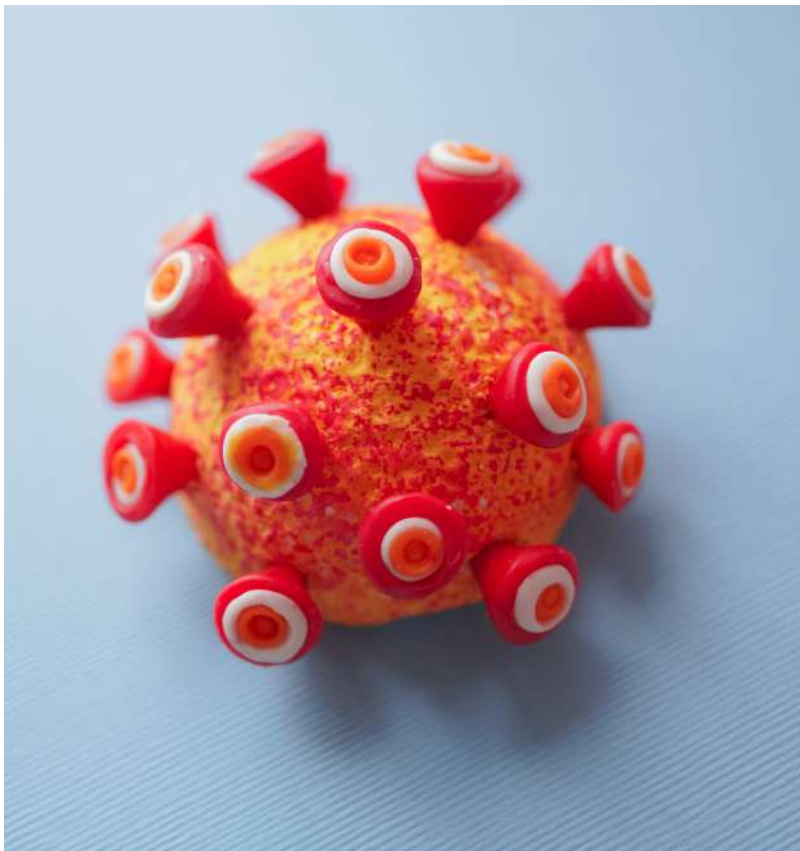
Director of Social Development & Gender Affairs



# Justice in the Covid-19 Era: A Practitioner's Perspective

## *The Challenge*

As the year 2020 dawned, it brought with it rumblings of a new challenge in the form of the novel coronavirus, Covid – 19. As February rolled into March, it became apparent that this would be a global pandemic. The TCI began to consider how it would respond, and the justice sector was one of the most critical areas. In days past, trials in both the Magistrate's Court and the Supreme Court were often crowded affairs; what with juries, attorneys, witnesses, defendants, and the court staff, the small buildings were often full. This was an environment that would have been extremely conducive to the spread of Covid – 19. Recognizing that it would be critical for the courts to continue to function, the Judiciary quickly searched for effective solutions.



## **New Infrastructure & Protocols**

With the Courts closed in the meantime, they were quickly outfitted with new infrastructure to adhere to the health and safety regulations. The information technology capabilities of the Court were also expanded with heavy investment in audio – visual equipment which heralded a new digital era in the justice system. While practitioners have always anticipated that this would be the future of the justice system, the pandemic caused a rapid restructuring which could only be born out of a situation of such urgency. The judiciary and court users were pushed to explore the use of video conferencing solutions, with end-to-end encryption, which allowed for the hosting of Court sessions without compromising the confidentiality and integrity of the proceedings.

## **The Return of Jury Trials – Is it safe?**

Jury trials which attract the highest traffic, received special attention from the Bench and Bar. Initially suspended for an entire year due to the inherent dangers, special procedures were put into place in practice directions 5 & 6 to allow them to be conducted safely. These plans were successfully implemented on April 12, 2021 with the matters of Regina v Jumillio Isma in Grand Turk and Regina v Damien Williams in Providenciales.

*As the year 2020 dawned, it brought with it rumblings of a new challenge in the form of the novel coronavirus,*

# Justice in the Covid-19 Era: A Practitioner's Perspective cont'd

## *The new method of conducting trials ...*

The new method of conducting trials featured a hybridization of remote trials and social distancing protocols. The jurors were kept apart from the other Court users during the matter. Jury selection happened outside with prospective jurors seated under a tent, and rollcall and selection were made there. The judge addressed them from inside the courtroom by video link, and selected jurors were then escorted upstairs for empanelment and again were socially distanced during the usual empanelment process. Having been selected, they were then escorted to the jury room. Courtroom 2 was outfitted with screens and surround sound so that the jurors were able to view and hear the proceedings clearly.

To ensure that the proceedings were accessible to the public while maintaining the security of the witnesses, the proceedings were live-streamed online except for the testimony. Members of the public were able to visit the Courts and safely watch the proceedings, including the evidence, by way of viewing screens set up outside the court in such a way as to prevent crowding while maintaining a commitment to open justice.

## **The Digital Revolution and Court Users**

The overhaul of court processes is the sort of new beginning which we see in most fields as societies return to what has been dubbed the “new normal”. Having to find new ways of doing things previously thought to be unassailable practices has demonstrated for this, one of the professions most dedicated to the maintenance of traditions, that the nobility of the profession can be maintained even with the change. In a recent presentation at the JAMBar mid-year conference President Morrison in his usual erudite fashion captured the sentiment most beautifully by saying that “while tradition is of inestimable value, there is nothing to be feared from change.”

Attorneys and witnesses alike have embraced the newfound ability to appear from appropriate, comfortable surroundings without commuting and waiting at the Court. Allowing for increased productivity, flexibility, and efficiency in their own schedules. As the rest of the region also embraces these hybrid practices, the time is ripe for more of our practitioners to explore practicing in multiple jurisdictions.

It has also resulted in greater efficiency for the Court, as there are less reasons for adjournments and matters are dealt with more quickly. In an archipelago such as ours it also enables Court users to participate in hearings in all the islands without necessarily travelling there. Non-trial matters before the courts in the varying islands can be heard with the same parties without issue. It has also laid the foundation for the paperless court which is the next step in the evolution of the justice system. Admittedly, the legal profession is not the most environmentally friendly with our voracious appetite for paper. Remote hearings are the natural ally of an e-filing system.

As with all things new there will be teething pains, as practitioners have had to adapt to the new technology and around the world it has made for some very comedic moments as persons navigate this new frontier. In fact, searching “I am not a cat” on YouTube will demonstrate one of the pitfalls we should try to avoid. Nonetheless, the benefit to the justice system is one that is clear and requires our continued patience as we adapt to a more modern and sustainable system. It also requires that we adjust in the way we present our cases and arguments as we lose some of the ability to read our audiences. These are, however, not insurmountable hurdles and many of us hope that the digital age is here to stay as we begin to turn the corner in this pandemic.

Contributed by:  
Ms. Tamika Grant  
Attorney - at - Law



## LETTER TO THE EDITOR

### *Judge-Only Criminal Trials for the TCI?*

#### **The Law**

Trial by jury is the traditional norm for the TCI, the tradition brought to us by the common law derived from Mother England, but section 58 of the Criminal Procedure Ordinance allows for either Prosecution or Defence to apply for a judge-only criminal trial, having regard to:-

- The nature of the charges;
- The complexity of the case;
- The length of the trial;
- The effects of pre-trial publicity; and
- Potential jury-tampering

The procedure is set out in ss. 58-61 of the Criminal Procedure Ordinance allows the parties to apply, or if the judge unilaterally feels that the case merits such a presiding configuration. But what does this mean for the TCI? Should we view it with suspicion and foreboding or greet it as a champion of efficiency, especially in a pandemic

#### **The Viewpoints**

There are differing views on the subject, some taking the position of Robert Buckland, QC, current Secretary of State for Justice for the UK, and Lord Chancellor since 2019, who in April 2020 in the Law Society Gazette, opined that it is not a solution to the pandemic backlog. His view is that it is a disproportionate step that would have consequences we would all regret. His belief is that the salvation of the judicial system from the scourge of the current backlog lies in the resumption of jury trials as quickly as possible.

On the opposing end of the spectrum is the well established example of the Jamaican Gun Court, which was established in the 1970s and continues strong to this day. With well over four decades of almost unquestioned authority, the gun court judges in Jamaica have presided, as judges with no juries, in matters involving the unlawful use and possession of firearms and ammunition. Its track record is unblemished; its pursuit of justice practically unquestioned.

*Who then do we believe? Who then do we follow? Perhaps we need to look at where we are in this date and time, right here in the TCI.*





## *Judge-Only Criminal Trials for the TCI?*

### *Part 2/3*

The TCI certainly has had a backlog, with no criminal jury trials since the initial lockdown in late March 2020. There are several persons on remand, not having their day in court, and the court is now hard-pressed to accommodate all their matters as quickly as possible. The effect is that the court system will now be overwhelmed with the administrative burden of organizing jury trials, when in fact, there are still doubts in the minds of the public as to the safety of the court system. Jurors would be in the company of relative strangers, all to engage in their civic duty. Some people have already expressed their unwillingness to so congregate.

In April 2021, we commenced jury trials once more in the TCI, with the first completed one being held in the nation's capital. There was reluctance on the part of jurors, there was grumbling, there was opposition to the fact that persons were being displayed for the preliminary portion online, live streaming on Facebook, but in the end, 12 persons were selected for a murder trial which lasted several days, with the jurors being split into two rooms. The trial being held in a blended fashion, with persons connected by Zoom, albeit the majority being seated within the same building. Many lessons were learned as time passed, and since that first trial, we have had three others in the nation's capital at the time of writing, with two of the four being completed and the jury being discharged in the remaining two.

#### **So What Has Been Done?**

One thing is for sure: the Judiciary of the TCI has expended considerable resources to ensure that the courtrooms are covid ready. Hepa filters, plexiglass, remote conferencing systems for those using remote facilities, and social-distancing protocols are already in place. That, however, might not be enough to assuage the uncertainty and fear surrounding COVID-19. The public is not yet totally convinced of the safety and security of these protocols in the context of a jury trial. It is quite different, standing in line to enter Digicel, than being in a room with others for days, adjudicating as judges of the facts. Persons, however, are slowly warming to the idea that the world is connected and that it extends to the more formal aspects of life.

#### **The Sanctity of Jury Trials?**

Many will still vehemently argue that jury trials are as sacrosanct as the Magna Carta. Still, they would be wrong because jury trials have had an evolutionary path for some time now. For example, in the UK, it was not until 1972 that the restriction of property holding was removed as a precondition, thereby including a whole plethora of potential jurors previously ineligible to serve. It is a well-documented fact that the ability to own property does not in and of itself mean that one has the ability to make good decisions involving liberty or incarceration.

#### **Serving Up Of Justice**

Justice can be served in judge-only trials too. It has been a consistent statistic that the conviction rate hovers somewhere around 35% in most jurisdictions when the percentage of judge-only trials, out of all criminal trials, is between 20-25%. However, when it dips to lower than that percentage, the conviction rate skyrockets to over 90%. Perhaps the newness of the judge only trials may have that result, but there is certainly an argument to make for the use of the facility. Many persons are on remand at Her Majesty's Prison, Grand Turk. There is no reason for them to continue to languish there, when if counselled well, they may opt for a judge-only trial.

In the end, though, it may be that the time has come to even consider more fundamental issues governing jury trials. Do we look at the selection, or election, of professional jurors, who would sit with the presiding judge and help with the adjudication of facts? This procedure is not new; in fact, it is the procedure in some European countries, such as France, Germany and Italy. These persons are not always middle-class, propertied individuals, but may be drawn from all walks of life and even subcultures [given the TCI dynamic. Indeed, this is a topic already garnering interest in the United Kingdom. It has not gotten enough traction to result in international attention, but it certainly has its pockets of support in some areas. One such area of support is Professor John Spencer, Professor Emeritus of Law at the University of Cambridge. From as far back as 2013, Professor Spencer has been advocating that common law jurisdictions consider a change in how jury trials are run.



## *Judge-Only Criminal Trials for the TCI?*

### *Part 3/3*

So many factors to weigh, so many issues to address; it can be mind-boggling. It is hard to get this right and easy to get it wrong. Truthfully, it may be on a case-by-case basis. Jury trials will come back, and they can be successful if the public can have enough trust in the ability of the Court to keep its users safe. Until then, judge alone trials may be the next best bet...or defence counsel's playground on Appeal.

Contributed by:  
Carlo Mason,  
Attorney - at - Law



## Writer's Nook, a poem

### *Be Responsible*

Help! Our doctors, nurses, essential workers cry,  
They're getting tired and emotions are running high.  
Please, stay at home. It's the best you can do  
for your neighbour, your family, and especially for you.

Their families are at risk, too, with each new case they see,  
But this is not about you, it's not even about me.  
It's about being responsible when we play our part,  
Each one teach one, and the chain will start.

Remember, this disease knows no bounds,  
Whether you're slim, or packing on pounds,  
Whether you're black, white, old, young, rich or poor;  
It hits like a tsunami; it doesn't keep score.

Wash your hands. Try not to touch your face.  
That's a welcome gesture this disease will embrace;  
and before you know it, you're in quarantine;  
and the cure is not mere antihistamine.

Be careful, too, of the information you share,  
You may just be adding fuel to fire,  
Instead, choose to send a kind word;  
Use your common sense. That's what is preferred.

Say something encouraging, do something to bring cheer,  
Check on your loved ones often, and spend more time in prayer;  
This is a time for reflection, wouldn't you agree?  
Our world is in crisis, not just one country.

And this is about life in general, not just COVID-19.  
Stop spreading rumours. Stop being mean.  
If you don't know the facts, just do not say,  
Because it may come back to bite you in the ass one day

Barbara McKenzie  
March 2020

## Reader's Nook, a book review

### *Anne Tyler's "Redhead by the Side of the Road" [2020]*

Although it is Anne Tyler's twenty-third novel, I don't think I've read any of the others, despite her winning the Pulitzer Prize in 1989, [for "Breathing Lessons"], and her 1985 work, "The Accidental Tourist" winning an Oscar for Geena Davis in the 1988 Lawrence Kasdan movie with William Hurt.

"Redhead by the Side of the Road" [2020] concerns Micah, aged 43, an OCD computer repairman and janitor in Baltimore who is a bit of a "finicky" creature of habit. Quentin Crisp famously opined that "There is no need to do any housework at all. After the first four years, the dirt doesn't get any worse". Micah is rather the opposite, with a regimented regime of household tasks and the "personal theory that if you actually noticed the difference you made when you cleaned - the coffee table suddenly shiny, the rug suddenly lint-free - it meant that you had waited too long to do it".

The "Redhead" of the title turns out to be a fire hydrant that Micah passes daily on his morning jogs but through failing eye-sight every single morning mistakes for a child or a short grown-up.

One day his routines are blown apart when his woman friend (he refuses to call anyone in her late thirties a "girlfriend") tells him she's facing eviction, which he fails to understand is female code for a broader issue in their relationship; then a teenage student turns up at his door claiming to be his son.

The evolving catastrophe is beautifully observed, the characters engagingly introduced and the assessment of personal foibles delightfully astute. I really enjoyed it, and at 178 pages, it is a very easy read.

Richard Bendall  
17 April 2021

