

PROSECUTORS AND INVESTIGATORS WORKSHOP
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OPENING REMARKS

By

THE CHIEF JUSTICE [AG.]

HIS LORDSHIP THE HON. JUSTICE BRIAN ALLEYNE, SC.

It must be clearly apparent to all of us, that there is in Saint Lucia a strong public sentiment that the criminal legal and judicial system, to put it mildly, is not functioning efficiently, indeed is very ineffective, and that this is a major contributor to the prevalence of crime in this country. No element in the system escapes criticism. The level of public dissatisfaction is palpable, and we have to accept that things are not what they should be.

It is always tempting to seek to pass the blame for failures or problems on to others, to seek to protect our own reputations or the reputations of our institutions. Yet blaming others, or even ourselves, solves nothing.

It is true that before we can begin to tackle the problem, we have to recognise and acknowledge that a problem exists. We have to acknowledge at least that we, or our institutions, are affected by the problem. We have to take responsibility.

There has been an escalating trend of increasing delays in the criminal justice system. These delays have permeated every level of the system, from the Police response to complaints, through investigation, filing and processing of charges, service of documents, the trial process itself, and enforcement of orders and judgments. Parties, from complainants through witnesses to defendants, have been made to attend court repeatedly, often over a period of years. Prosecutors and defence lawyers and other participants in the process either attend, or just as often fail to attend court on scheduled days, resulting in escalating costs and inconvenience to others. Complainants become discouraged and disenchanted, and either give up on the system and abandon the pursuit of their remedies, or decide to administer their own remedies on the basis of self-help, usually another unlawful act inviting a repetition of the cycle. We face growing delays and escalating backlogs. The thing feeds on itself, and to some there appears to be no solution. We have to ask ourselves seriously, What is to be done?

It is because we have asked ourselves that question, and we have sought to answer it in a constructive manner, that we are here today.

The programme which we are starting today, and which will run in two cycles over the next four days, results at least in part from a decision of the Eastern Caribbean Supreme Court, with the encouragement and committed support of the Honourable Prime Minister and the Government of Saint Lucia, to embark on a project to radically reform the criminal trial process. The extent of the Government's commitment to this initiative is demonstrated by the fact that for a full year the Government has invested the entire cost of maintaining an additional Judge in Saint Lucia, the cost of providing additional premises and staff to enable the process to be implemented, and ensuring that the bureaucratic roadblocks and inertia, or even active resistance that is inevitable whenever change is attempted, were not allowed to obstruct the realisation of the project.

The reform of the criminal trial process, involving the introduction of new criminal procedure rules for processing and trying summary and indictable criminal charges, places new and different demands on the Police Investigators and the newly formed Crown Prosecution Unit. The new Rules will demand very strict timelines, placing pressure on the Police and the Process Servers to meet specific deadlines for various actions and stages in the process. One of the principal aims of the reforms is to ensure that the time between arrest and charge, and final disposition of the trial, is reduced to an acceptable period. To achieve this objective, specific stages of the trial process are strictly managed by the Court itself. As was done with the Civil Procedure Rules in 2001, the management of the progress of the case through the Court is removed from the parties and placed in the hands of the Court.

Dialogue between the Commissioner of Police and the Supreme Court resulted in a decision that the Judicial Education Institute of the Eastern Caribbean Supreme Court would mount a training seminar to prepare Police Investigators for the effective performance of their role in the new system. At the same time the Crown Prosecution Service were planning their own training programme to prepare the lawyers and the Police Prosecutors in that unit to play their part in the new dispensation. It was soon realised that there were a number of areas of common concern and overlap, and it was decided that a collaborative effort would be more productive than separate parallel activities. It is in that context that this joint training exercise is being embarked on today.

The training is broken into two groups of 34 each, including the Director of Public Prosecutions and four other lawyers working in that department, the remaining 63 participants being Police Prosecutors who assist the DPP's office, and under the direction of the DPP lead prosecutions in summary criminal matters, and Police Investigators who collect the evidence and prepare it for presentation in the Courts. It was of vital importance in the minds of the Court,

the DPP and the Commissioner of Police that all these actors in the process have a clear understanding of what is expected of them under the reformed process. The training covers both law and practice, and is intended to improve the participants' technical and professional skills. I emphasize, however, that technical skill will not be enough to solve the problems which are causing such public disquiet. It will take a change of attitude, a commitment on the part of all the players in the process to make it work, to ensure that prosecutions of criminal offences are processed and brought to a conclusion speedily.

There are still a number of backlogged cases in the system which will have to be dealt with under the old rules. That is a separate issue that will also have to be tackled with determination, imagination and commitment, in a sort of parallel track. The present exercise does not seek to address that problem. That does not mean that we minimise the problem. It is a problem that has to be dealt with effectively for the many persons who are suffering injustice arising from the delays, in some cases of as much as four years, in the processing of their cases. The injustice is not only to the victims and the persons accused, but to the society at large, whose anxiety about the growing lawlessness in the society arises to some degree from the perception that the inefficiency of the trial process is, if not the main cause, one of the significant causes of the growing criminality in the country. We all in the system are under an imperative to deal effectively with that problem, while at the same time avoiding further growth in the arrears and backlog by implementing the objectives of the reforms. That is surely not beyond our ingenuity and ability to achieve, if only we have the will.