

CJ Speech for the Opening of the Mediation Centre

Good morning to all present. May I also respectfully adopt the protocol set by Her Excellency the Acting Governor, as followed by other speakers.

On behalf of the Judiciary of the Turks and Caicos Islands, and the Chairperson of the Mediation and Restorative Justice Committees, I welcome you to the commissioning of the Mediation Centre of the Turks and Caicos Islands.

This ceremony marks the official opening of this space, generously supported by the Foreign and Commonwealth Development Office UK, through the efforts of His Excellency Governor Nigel Dakin. We also acknowledge the work of the Cabinet of the Turks and Caicos, the Attorney General's Chambers, and the Ministry of Physical Planning and Infrastructure Development in making this facility available to us.

The Mediation Centre is dedicated to the use of persons throughout the islands who wish to have their disputes mediated, as well as victims of, and persons impacted by crime who seek to achieve healing and closure through Victim-Offender mediation, referred to as Restorative Justice.

Both Court-Connected Mediation and the Restorative Justice Process will be accessed at this Mediation Centre. The Mediation Centre will be the neutral place away from the intimidations associated with courtrooms; providing comfort, to allow for meaningful mediation of disputes as well as the facilitation of the restorative process.

Provided in this space for the use of mediators, facilitators and parties, are: two conference rooms equipped with electronic capability; an office for a Mental Health practitioner who may need to assess the suitability of cases

for the restorative justice process; an office for mediators and facilitators where they will prepare for the sessions by reading through the briefs assigned to them; an office for the ADR Administrator who will assist mediators and facilitators and parties; a notice board that will provide information on mediation dates and other information; bathroom facilities; a lunchroom; and shortly, disabled access at the back of the building to accommodate persons who may find it difficult to access the Centre which is at the second floor of a two storey building.

It is important to note that although this centre is on the island of Providenciales, it is for the entire TCI. This is to say, that while mediation and the restorative process have been provided for at Grand Turk to be conducted from the Jury Room of the Supreme Court building, and while we hope to provide space for mediation or the restorative process in other islands, at this time, this Mediation Centre stands for all mediators and facilitators in TCI. Thus every mediator or facilitator may access this centre for their sessions, if such is desired, or as necessary.

So what is mediation? And what is the restorative justice process?

Court-Connected Mediation was introduced into justice delivery in these islands by the promulgation of Rules of Procedure in October 2021, and the training and certification of mediators.

Mediation is a recognized method of alternative dispute resolution achieved through a negotiation facilitated by a neutral third party who assists the parties to arrive at a settlement. It is a system that is controlled by the persons with the dispute, as they have a direct input in the outcome. Mediation which achieves speedy resolution, and is cost effective has the

track record of upholding the dignity of feuding parties, and also, of preserving relationships.

Persons with disputes may now go to court not to have their matter heard by a Judge or Magistrate, but to request mediation. Others may have their disputes referred to mediation by the Court, as necessary, and now, they have a comfortable place to air their grievances and work towards the resolution of their dispute.

Restorative Justice is an outworking of the system of achieving reparations introduced by the Alternative Sentencing Ordinance. It is a form of mediation which employs a reparative approach to criminal justice by emphasizing the repairing of harm caused to victims and persons impacted by crime, as well as finding positive ways forward after the devastating effects of crime by encouraging meaningful engagement. May I make it clear that all this is done without sacrificing the accountability that should accompany the commission of crime.

Traditionally, restorative justice has achieved the multiple purposes of preventing a repetition of the criminal conduct, bringing healing and closure to victims of, and persons impacted by crime, as well as repairing relationships.

As the Mediator guides the process of a mediation, so, a restorative justice practitioner (referred to also as a Facilitator), guides the restorative process towards achieving the goal of reparation and reconciliation in the appropriate case.

The trial court may before or after passing sentence, with the consent of the victim of a crime, require a person accused or convicted of committing a crime to submit themselves to the restorative justice process.

The ADR Administrator, working with the Mental Health Practitioner may determine the suitability of the restorative process in certain cases, as well as the extent of involvement of parents and guardians in cases involving juveniles.

The provision of electronic capability is to ensure that in the proper case, a victim who may be traumatised by the physical appearance of the perpetrator of crime, may be spared such.

The introduction of the twin initiatives: Court-Connected Mediation for civil cases, and the Restorative Justice process for criminal cases, is the culmination of the collaborative efforts of various institutions and entities.

The Attorney General's Chambers supported legislative changes to the Civil and Criminal Procedure Ordinances to enable the Chief Justice to provide a mechanism for the initiatives which included the publication of the Rules governing the two regimes; the Cabinet of TCI approved legislative changes to enable this; the Hon. Members of the House of Assembly supported and passed the amendment to the Criminal and Civil Procedure Ordinances for the purpose; Mr. Boyce, the Editor of the TCI Sun ran advertisements for free for a cumulative period of six months – three months for Court-Connected Mediation from October to December 2021, and three months for Restorative Justice from March to May 2022; the St Augustine Campus of the University of the West Indies conducted the training and certification of Mediators and Facilitators; pioneering, industrious and brave persons subjected themselves

to the 40-hour training; the training was conducted by Ms Ann Diaz, a qualified mediator and trainer certified by William Mitchell College of Law of Canada and the Mediation Board of Trinidad and Tobago and who has taken time off to be with us today, as well as Dr Talia Esnard of the Department of Behavioral Sciences of the University of the West Indies.

Restorative Justice was introduced with the promulgation of its Rules of Procedure on 1st June 2022. The process of its introduction was by the consensus of the Criminal Justice Stakeholder Group (CJSG) which approved this initiative as important to the reform of our criminal justice system. The members of the Criminal Justice Group not only approved the initiative when it was presented to the meeting, but also encouraged its introduction, and actively participated in it by nominating members of their staff to take part in the training.

It is therefore true to say that while Restorative Justice is a Judiciary initiative, it was given the necessary push by the CJSG, the group of seven criminal justice institutions made up of the Judiciary, the Attorney General's Chambers, the Office of the Director of Public Prosecutions, the Royal Turks and Caicos Islands Police, The Department of Corrections and Rehabilitation, the Department of Social Development, and the Bar Association of the Turks and Caicos Islands.

Training for certification in Restorative Justice ended a few weeks ago, and implementation will commence following this commissioning.

I am happy to report that a total of 42 persons have been trained in Mediation and 26 persons, in Restorative Justice, all paid for by the Judiciary.

Among the persons trained are attorneys including Queen's Counsel, a member of the House of Assembly who is also an attorney, a Psychologist, public servants in active service, and retired public servants, members of the public, and three Ministers of the Gospel, one of whom (Reverend Braithwaite) being trained and certified in both Mediation and in Restorative Justice, we invited to say the prayer for this event.

While today marks the official introduction of the implementation of both the mediation and restorative justice processes into these islands by the provision of a place to conduct sessions, I am pleased to inform all present that already, we have made some strides which augur well for entrenching the systems into our justice delivery. It is my hope that I will be in a position to apprise you of the gains of the new system at the Opening of the New Legal Year 2023.

At this time, we have 11 Mediators on the Mediation Roster with 10 pending applications for trained persons to be added to it.

The work of the approval for placement on Roster is undertaken by the Mediation Committee with the membership of: The Hon. Ms Justice Tanya Lobban Jackson – Chairperson; His Honour Mr. Jolyon Hatmin – Chief Magistrate; Ms. Renee McLean - Registrar of the Supreme Court, and Mr. Selvyn Hawkins, President of the Bar Council.

The Registrar of the Magistrate's Court, Ms. Patricia Arana is currently the ADR Administrator, responsible for the administration of both Mediations and Restorative Justice sessions.

So far, of the 26 persons who have been trained at the expense of the Judiciary and certified in Restorative Justice, only 1 person has applied to be

placed on the Roster of Restorative Justice Practitioners. May I therefore respectfully use this opportunity to make a call for all persons who have been trained and certified to apply to be placed on the Roster, so they can begin work. We promise that their convenience will be an important consideration in the scheduling of cases.

The Judiciary's mission is to provide "access to quality justice" and we aim to do this through the provision of excellent service, including efficient and effective dispute resolution.

Today, we take one more step towards achieving this mission, and we do so with deep gratitude to all who have joined hands with the Judiciary in our march towards relevance, significance, and excellence.

I acknowledge all present, for your continued support, and I thank you all.

M.M. AGYEMANG CJ

15/7/22