

Press Release by the Hon. Chief Justice

Resumption of Summary Court trials and the need for personal attendance.

As stated in previous press releases¹, the objective of the judiciary and judicial administration continues to be the provision of access to justice , even while minimizing risk to the health of members of staff, the jurors, the attorneys, other members of the public, police and prison officers, probation officers and other representatives of the various agencies who must interact with the Courts for the delivery of justice.

While the Shelter-in-Place Regulations have been operative, the Courts have continued to function by way of video-link technology for remote hearings and by the internet and website for online access to the Registries, Court Funds Office and other functions. This has resulted in as little disruption as possible to the timely disposal of cases in the family, civil and financial services divisions. However, there has been an inevitable and significant impact upon the disposal of criminal cases, especially trials by jury because of the obvious risks which would be attendant upon having jurors sit and confer together in close quarters for the trials and deliberations.

But now that the society (and business community in particular), gradually return to work, so too will court activities more fully resume, albeit in a managed and incremental way. In the interests of justice, it is of paramount importance that trials resume so that justice may be administered timely, especially for those persons who are awaiting trial in custody or on bail.

Like many of our regional and global counterparts, courts are grappling with how to keep the wheels of justice turning in an efficient and effective manner. What has become abundantly clear is that with the ongoing need for social distancing, as COVID-19 is likely to be with us for quite some time, courts will have to embrace innovation in all areas of business to be able to effectively provide high quality and timely service.

The courts have been early adopters of video link hearings, commencing remote hearings from the prisons since 2014 to reduce the need for prison officers to transport defendants to court on a daily basis and have since 2000 held commercial trials simultaneously in court and through video link. This service has drastically increased as a result of COVID-19 and is likely to become a mainstay feature of court procedure going forward. For instance, only this past week, we successfully convened the court of Appeal Easter Session with the President and Justices of Appeal presiding in Court in Cayman by video links from their respective homes in the UK.

However, whilst video link technology will be appropriate for many hearings, it may not at this time, be adopted as a mandatory substitute for open court trials, where the Defendant has a constitutional and legal right to a public hearing and to appear in person before the court.

¹ Available at www.judicial.ky/covid-19

Accordingly, in keeping with the procedures described below, criminal trials will commence next week first in the Summary Courts and judge alone trials in the Grand Court, to be followed, commencing 1 July 2020, with jury trials in the Grand Court.

The public are assured that Judicial Administration staff are actively preparing for the return of those court users who must attend in person, with the appropriate protocols regarding health, safety and crowd limits (social distancing). These measures must and will be strictly applied.

Commencement of Hard Curfew Breach Cases in the Summary Court

Commencing the week of May 19th, charges for breaches of the Hard Curfew regimes are scheduled to be heard in the Summary Court and defendants to these charges are required to attend court for a first mention hearing. Appropriate social distancing measures will be established whereby hearings will be held in the Town Hall (“Constitution Hall”, George Town Center) and 5 persons will be summoned into the Hall at half hour intervals, with 25 persons in total being presented before the court each day. The total scheduled number of Hard Curfew breach cases to be considered next week will be 100.

Resumption of cases adjourned administratively.

Defendants whose cases have been subject to the rolling 28-day adjournment since the Public Health ‘Shelter in Place’ Regulations came into effect, are advised that they are required to attend court at their next scheduled court date.

All defendants should check the court website <https://www.judicial.ky/courts/cause-lists-all> or the websites of the Caymanian Compass, Cayman News Service or Caymanian Times for publication of the weekly Summary Court Cause Lists which will give notice of the date for hearing of their cases, from now on until further notice.

All persons, including defendants attending court, must wear a mask upon entering the building and will be required to sanitise their hands upon entry.

Defendants who require further information are to call the Criminal Registry Help Desk – 244-3867 or Email: criminalregistry@judicial.ky. The Courts offices are not open to the general public at this time, save for attendance at one’s court hearing itself.

Imminent Resumption of Court Trials

Members of the Public are also advised that other categories of Summary Court trials will soon resume generally.

Effective 19 May 2020 the Summary Court will resume criminal trials, starting with *cases involving breaches of the Hard Curfew*. See further below.

Effective 25 May 2020, the Summary Court will resume hearing *all other criminal trials*. Effective 28 May 2020, the Summary Court will resume in person attendance at the *Drug Rehabilitation Court*. Testing for that Court will resume on 25 May 2020. Effective 16 June 2020, the Summary Court will resume hearing all *Traffic Court* matters.

Whilst video link hearings for mentions, remands, bail and case management will continue to take place, but as already mentioned, in the interests of justice, trials are to resume by attendance of defendants, witnesses and attorneys in person (unless otherwise directed by the court).

Again, Judicial Administration wishes to advise all court users that it is taking every measure to apply reasonable social distancing procedures, sanitization and hygiene practices to ensure the safety of all upon resumption of business. All categories of court users involved in trials will be advised of the requirements for attendance at court, including the health and safety protocols to be observed in and around the court room.

As essential services providers, all Legal Aid Criminal Law Attorneys and Duty Counsel have been issued their Curfew Exemption letters via the Legal Aid Office. If attorneys are not yet in possession of the same, they are invited to contact the Legal Aid Office at legalaid@judicial.ky.

Resumption of jury trials in the Grand Court.

A further press release will be issued shortly to advise on the protocols for resumption of jury trials on 1 July 2020. The names of those who will be called to serve as jurors have been settled by the random computer selection process from the Voters List and summonses will be issued next week.

Public and press access to Court proceedings.

While open court hearings will resume for the reasons explained above, this regrettably, does not mean that there can be unlimited personal public or press access to these proceedings. In order to ensure proper social distancing, the proceedings will be broadcast by a live stream to a dedicated location (either Constitution Hall or Court 4) where a limited number of members of the public might take turn observing the proceedings. Accredited members of the press will be allowed password access to the video link proceedings while only 2 members at a time may be allowed to be physically present in the court room. No audio or video recording of the proceedings are allowed (in which regard see *Practice*

Direction 8 of 2020 at <http://www.judicial.ky/practice> directions). Members of the press should contact the Courts Criminal Registry (as above) for further instructions.

Hon Anthony Smellie

Chief Justice

Grand Cayman.

14 May 2020.