

**Address by Hon. Samuel Bulgin QC,  
Attorney General – Grand Court Opening  
January 17, 2018**

1. My Lord Chief Justice, Hon. Judges of the Grand Court, Hon. Chief Magistrate, and other Hon. Magistrates, President of the Justices of the Peace Association, Madam Director of Public Prosecutions, Madam Acting Solicitor General, Presidents of the Bar Association and the Law Society, other colleagues at the Public and Private bars, other special and distinguished guests, Ladies and gentlemen.
  
2. May I seek your leave my Lords to especially recognize Her Excellency the Governor who, as is customary, is present today in affirmation of her support for the Judiciary. My Lord I am aware that this will be her last such visiting with us, but we would wish to publicly thank her for her steadfast commitment and support for the Judiciary, and by extension

the rule of Law, ably supported, where required, by the JLSC.

3. It is with pleasure My Lord Chief Justice that I rise, at your invitation, to move the motion for the opening of the Grand Court for the Year 2018, and as is customary will crave your indulgence to offer a few remarks.
4. My Lords it is customary for us to use this occasion to reflect on the previous year while also attempting to preview the coming. This year will be no different.
5. Part of the reflection My Lords regrettably has to take note of former colleagues who passed on last year, and so allow me to observe the passing of Justice Kipling Douglas and Attorneys Richard de Lacy QC, Mr. Julian Black and Ms. Julene Banks, all of whom were well known to us and were esteem colleagues. We understandably wish to extend our condolences to their families and friends.

6. My Lord allow me to also again extend congratulations to those colleagues who were publicly recognized for their leadership at the Bar by being elevated to the rank of Queens Counsel, Mr. Ben Tonner QC, Mrs. Myrtle Brandt QC, Ms. Sheridan Brooks QC, Mr. Hector Robinson QC, Mr. Ross McDonough QC, and former Solicitor General now High Court Judge of Trinidad Ms. Jacqueline Wilson QC, all truly deserving colleagues.
7. Permit me to also say a word of welcome to our first Ombudsman, Madam Sandy Hermiston who has transitioned smoothly into her new role. We wish her well.
8. I also my Lord wish to congratulate Justices Kawaley and Parker on their appointment to the Grand Court, FSD, and to note that they are already making worthwhile contributions to the jurisprudence of these Islands.
9. I also wish not just to say a word of welcome, but to add that it gives me immense pleasure to say special congratulations

to acting Judges, Madam Justice Carter, and Madam Justice Gunn. Welcome also to Justices Carlisle Greaves, Stephen Hellman, Frank Williams and Roger Chapple.

10. My Lords we extend appreciation to the entire judiciary of these Islands as you continue to hear and dispose of matters in a manner that continues to engage the confidence of all. Permit me to pay special tribute to you My Lord Chief Justice for marking this your 20<sup>th</sup> year as Chief Justice and for your continuing visionary and transformative leadership of the Judiciary.
11. While on the Judiciary may I my Lords note that during 2017 the Court continued to resolve the myriad of issues it is faced with on a daily basis, matters such as important constitutional challenges dealing with the retroactivity of the Bill of Rights, the constitutionality of immunity provisions in certain legislation, contentious family law matters, multi-defendants

criminal cases, as well as complex commercial, civil and other public law matters.

12. My Lords, 2017 saw these Islands continue to be engaged by international initiatives involving the FATF/CFATF, the EU, as well as others: We also had to wrestle with the hacking and unauthorized disclosure of personal business information by those who are yet to be convinced of the soundness of our regulatory framework.

Last year I also mentioned the then pending CFATF Mutual Evaluation of Cayman. I am to report my Lords that the on-site review took place in December last year and we now await the written report which will eventually be discussed and agreed in the November 2018, Plenary in Barbados.

13. My Lords, on the Legislative front, it is only fitting to start by noting the retirement of Mrs. Myrtle Brandt after more than 15 years of exemplary service as First Legislative Counsel. We wish her well in her retirement. Mrs. Brandt

my Lords is ably succeeded by Ms. Cheryl Neblett who brings years of experience to the post.

14. 2017 saw a number of significant pieces of legislation enacted. These included the Ombudsman Law and, the Public Authorities Law both of which were hinted at by me last year, also the older Persons Law, which is a direct response by Government to protect the vulnerable in our society; there was also the Procurement Law and, Utility Regulation and Competition Law. We also saw a revamped law dealing with complaints by members of the public against the Police. There were also amendments to numerous other laws (including a new set of Anti-Money Laundering Regulations) that were required in order to ensure Cayman's continuing compliance with international standards on Money Laundering, beneficial ownership information, and transparency in general. Thanks also to the Data Protection working group for their timely completion of the draft

Regulations which will be going to Cabinet soon. My Lords, it is Government's wish to also enact the CCTV legislation this year and thereby have in place Data Protection and a complementary CCTV legislative framework.

15. We also saw the enactment of the Sexual Harm Prevention Orders Provisions and the consequential making of the first such order last year. The objective is to protect the public and the vulnerable within our society from sexual Predators.
16. This coming legislative year Government will be proposing legislation to commence the streamlining of Human Resources and Immigration matters. Government is also hoping to have another look at the National Conservation Law in a further bid to ensuring the proper balance with S.18 of the Constitution (protecting the environment) and the need to facilitate sustainable development.
17. The Law Reform Commission is the agency of Government mandated to reform the laws of the Cayman Islands. Its work

is continuous in nature and is of significant importance in light of the constantly changing needs of the contemporary Cayman Islands Society.

18. During 2017 the Commission submitted its Final report on the Strata Titles review as well as a supporting Strata Titles Bill.
19. In addition, the Commission will shortly be submitting its Final Report on the statutory regulation of accomplice evidence. The aim is to introduce provisions which will facilitate plea agreements between defendants and the prosecution.
20. For 2018/2019 Reporting Year, the Commission will be pursuing several projects. These include:
  - Legislation to provide for partial codification of the law of contempt;

- the modernisation of the Computer Misuse Law in order to respond to the various forms of cyber-criminal conduct and cyber security issues;
- proposals to strengthen the effectiveness of the existing Trusts Law regime;

21. My Lords, in the area of law revision, it should be noted that the period since the enactment of the first Law Revision Law in 1975 the body of legislation in effect in the Cayman Islands has expanded in both volume and complexity. By way of example, the average length of a piece of legislation in 1975 was less than 10 pages. There are now pieces of legislation in excess of 100 pages in length and some, such as the Companies Law, are in excess of 200 pages in length. In addition, the volume, and complexity of the linkages among and between individual pieces of legislation, as well as the frequency with which legislation is revised, have all increased dramatically in the past decade.

In 2017 the Law Revision Commission revised 39 pieces of legislation and it is projected to revise 45 pieces of legislation in 2018, comprising in excess of 2,500 pages and thousands of cross references. The rapidly increasing workload faced by the Law Revision Commissioner's office highlights the need for new automated systems capable of meeting the current and future demands. Implementing such systems are a priority for the Law Revision Commissioner's office for 2018.

22. My Lords, looking briefly at the Law School, there were some standout achievements last year. They include:
- The PPC affiliation with Oxford Brookes University leading to the award of the University's Diploma in Legal Practice from the Summer of 2018. The first enrolment of students to benefit from the new arrangement took place in September 2017.

- The introduction of two new (part time) postgraduate programmes offered as the awards of the University of Liverpool. The two new awards are:

i) the University's Master of Laws in International Finance; and

ii) the University's Postgraduate Diploma in International Finance.

The first enrolment of students took place in September 2017 and they are eligible to graduate in the late summer of 2019

- Then there was the publication in the early autumn 2017 of the second issue of the Cayman Islands Law Review containing a summary of Grand Court and Court of Appeal decisions.

23. Moving on my Lords, allow me to publicly recognize the continuing hard work by the Commissioner of Police and his team in maintaining law and order. It is regrettable my Lords, that in doing so there are those within the society who think it is ok to violently assault these officers. My Lords it is a worrying trend that we must all condemn in the strongest terms as we voice our support and encouragement for Police officers.
24. We are also aware my Lords of initiatives by the Commissioner to increase Police visibility with the appointment of community support officers led by a familiar name, Inspector Courtney Myles.
25. My Lords still on the issue of Law and Order, the Government, as part of the last budget exercise, has appropriated funds to augment the number of Police officers, with an additional 75 to be recruited over the next three years.

26. The Government is also embarking on an initiative with the provision of funding for a long term “prevention of crime project” aimed at diverting “at risk youth” away from crime and also reducing re-offending.

### **Grand Court**

27. Touching on Criminal Justice matters my Lords, in the Grand Court, despite the constraints in the availability of court rooms in the Criminal Division, with the hard work of My Lord Chief Justice, the Honourable Justice Quin, the main judge in the Criminal Division, along with the able assistance often afforded by Temporary and Visiting Judges, 2017 saw a record year for the operation of the Grand Court criminal case management system, and the prompt listing of cases. With the continued assistance and dedication of the Listing Officer, Ms. Yasmin Ebanks ably assisted by Ms. Suzanne Livingston, two Grand Court trials were able to be listed in tandem during most weeks of last year. By our count some

significant number of indictments were disposed of. Some 100 new indictments were filed in 2017 and with the work done in improving the efficiency of the procedures in the Grand Court, defendants are now able to have trial dates within 6 – 9 months of their arraignment in the Grand Court.

This is a testament to the hard work of all involved in the criminal justice system, the Bench and the private and public bar to ensure that justice is dispensed in a timely and efficient manner.

28. It is only appropriate my Lords that in all of this we pause to pay tribute to the DPP Ms. Cheryl Richards QC, and her dedicated team of prosecutors as they continue to prosecute matters of increasing complexity and providing timely expert guidance to the police investigators. We applaud their continuing dedication and professionalism in fulfilling their role as Ministers of Justice.

29. In the area of Sentencing Guidelines- in 2017 with the continued hard work of the Criminal Justice Review Committee under the Chairmanship of Justice Quin, Money Laundering Guidelines were

issued. Draft guidelines in relation to Causing Death by Dangerous Driving have been reviewed by the Committee and are due to be issued soon. Work on additional guidelines will continue in 2018.

### **Summary Court**

30. In the Summary Court under the able direction of the Chief Magistrate assisted by her strong team, there was great effort in reducing the back log of cases and to dealing with older matters in a timely manner. The continued work of the Drug Court mainly under the guiding hand of Magistrate Foldats is deserving of special mention. Significantly, there were very few clients who were terminated from the programme last year. By our estimate over 90% of clients continued in the various phases of the programme or achieved full graduation. This is but one way in which the Courts assist in the rehabilitation of offenders with drug related offences.

## **Specialist Domestic Violence Court**

31. Under the Chairmanship of the Chief Magistrate a working Group was convened to work towards the establishment of a specialist domestic violence court. This is in response to the volume of such matters and an identified need to deal more quickly with these cases. All stake holders, the Judicial Department, the RCIPS, Department of Community Rehabilitation, and Office of the DPP have finalized and agreed to a memorandum of understanding and there will soon be full implementation.

## **Preparation for Witness Care Unit to be opened in 2018**

32. In preparation for a Witness Care Unit to be opened in 2018, in September 2017 Senior Crown Counsel Elisabeth Lees and Serious Crime Case Manager Dennis Walkington were hosted by the Office of Public Prosecutions in Bermuda in order to complete a scoping exercise in relation to the establishment of a Witness Care Unit and a Witness Protection Unit within the Office of the DPP. The Witness Care Unit will ensure that witnesses in Grand Court

matters are kept fully informed as to the matters in which they are required, and any special needs are accommodated as efficiently as possible. Court visits and preparations for giving evidence will be streamlined in order to ensure that all witnesses in Grand Court matters are offered these services. This is an initial start and it is anticipated that this Unit will later be extended to include Summary Court witnesses. The ODPP will shortly assume responsibility for Witness Protection.

### **Adult Cautions**

33. Following the passage of the Adult Cautions Law 2017 and work on the required policy document, it is anticipated that 2018 will see the full implementation of the Law and that the new system will benefit not only those offenders who meet the requirements of the Law, but will also have a corresponding effect on the volume of cases which would ordinarily come through the Court system.
34. My Lords, coming to the end: permit me also to acknowledge the hard work and dedication of the staff within the Portfolio of Legal

Affairs and to say special thanks to Acting Solicitor General Ms. Reshma Sharma for her excellent leadership following the departure last year of former Solicitor General Ms. Jacqueline Wilson. I do certainly appreciate the continuing support of my entire staff.

## **Conclusion**

35. Suffice it to say My Lords, that we look forward to 2018, anticipating that it will be a year of much change throughout all sectors in the Justice System. There remains only for me to re-iterate the continued commitment of the Public Bar to providing quality service and our assistance in whatever way we can to facilitate the efficient conduct of the Administration of Justice, and in moving the motion for the opening of the Grand Court 2018 to wish for your Lordships, Magistrates, Court Staff, fellow Attorneys, and all here present, a prosperous and productive New Year.

I now formally move for the Opening of the Grand Court for the year 2018.

May it so please you My Lords.

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Hon. Samuel Bulgin QC

Attorney General

January 17, 2018