



# Remarks by Justice Winston Anderson at the Needham's Point Declaration Sensitisation Engagement of the Bahamas Judiciary

The Honourable Mr Justice Winston  
Anderson, Judge of the Caribbean Court

## **Needham's Point Declaration Sensitisation Engagement**

Judiciary of Bahamas  
17 June 2024

**The Supreme and Magistrates' Court of Bahamas** – The Bahamas Supreme Court was established in 1897 for the then Bahama Islands. The Constitution of an independent Bahamas further established the Supreme Court as a superior court of record with all of the powers of such a court; the Supreme Court is a court of unlimited jurisdiction. The head of the Judiciary, the Chief Justice, is a member of both the Supreme Court and the Court of Appeal, where he sits at the invitation of the President of that Court. The Court sat exclusively in Nassau for the first ninety-seven years of its existence, until a Supreme Court was also established in Grand Bahama in 1994. The Magistrates Courts act as courts of limited jurisdiction to hear criminal and civil matters. The Court is presided over by a Chief Magistrate, who reports to the Chief Justice.

CCJ Academy for Law  
**Needham's Point Declaration on Criminal Justice Reform**

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**Introduction**

Hon Chief Justice Sir Ian Winder, colleague judicial officers, ladies and gentlemen. My co-facilitator, President Alice Yorke-Soo Hon, of the Court of Appeal of the Turks and Caicos Islands, and I, are pleased to be here and thank you for sharing this space and time with us.

As you are aware, we are concerned to discuss with you the Needham's Point Declaration on Criminal Justice Reform. The Declaration was adopted at the end of the CCJ Academy for Law's 7<sup>th</sup> Biennial Conference, which was held on 18-20 October 2023 at the Hilton Hotel located in Needham's Point, Barbados. Hence the name of the Declaration. The conference was attended by Sir Ian, other judges and members of law enforcement from Bahamas, as well as diverse stakeholders from virtually every jurisdiction in the English-speaking Caribbean.

**Needham's Point Declaration Origin and Content**

The Needham's Point Declaration ("NPD") contains a preamble which recognises the problems and then proposes 39 Recommendations for reform. The Declaration purports to present a comprehensive menu of prescriptions for what ails the criminal justice sector in the region.

By way of a disclaimer of ownership, I feel compelled to make the point that neither the recognition of the problems nor the suggested solutions are new. For example, it is well known that a major problem in our criminal justice system is delay. In 2020, in *Craig Johnson v DPP* Justice Cheryl

Grant-Thompson of the Bahamas grappled with a delay of 11 years between the commission of the offence (a stabbing death) and the trial. That delay had triggered a constitutional motion by the accused for a stay of his criminal prosecution. The Judge referenced the Bail Act 2011 in which Parliament seemed to have considered that a reasonable period for bringing on the trial was three (3) years. She seriously considered staying the prosecution but then referenced the need to balance any prejudice to the accused against the interest of society in seeing that justice was done. She considered that prejudice of delay could be remedied by instructions to the jury and could be considered in sentencing. Another important decision on delay is that of the Privy Council which dealt extensively with the issue in the case of *Culpepper v The State* (2000) 58 WIR 420 (T&T).

Or take the other example of the type of evidence on which it is proper to rely for a conviction. In the CCJ case of *Sealy v The Queen* [2016] CCJ 1 (AJ), it was stated that:

“[121] The continued failure to legislatively require electronic recording of police interviews with suspects raises, potentially, questions regarding the integrity of the criminal justice system and whether the constitutional rights of an accused are being scrupulously observed. It is time to replace the policeman’s notebook with sound recording and, when reasonably practicable, video recording.”

In the subsequent case of *Edwards and Haynes v The Queen* [2017] CCJ 10 (AJ), the CCJ threw out the murder conviction of two (2) men where the only evidence against them was an alleged uncorroborated oral confession made by them to the police whilst in police custody but which they denied making.

The point is that there are many antecedents to the NPD. However, an important and perhaps unique feature of the Declaration is the attempt to provide this comprehensive blueprint for reform by way of actions to be taken by the Executive, Legislature, and Judiciary.

As concerns the Executive, the recommendations are mainly concerned with requesting the provision of funding and other resources to support the full reform of the system. Similarly, supportive legislation is identified and called for. The prosecution and the police are challenged to

engage in closer collaboration and to pursue new ways of doing things. Reforms are advocated in the interests of the accused, mainly for trials within a year for indictable and six months for summary offences. Reforms proposed in the interests of victims/survivors of crime include having a greater voice in prosecution and sentencing, a greater emphasis on restitution, and the creation of criminal injury compensation boards. The Declaration challenges the judiciary to start or continue many initiatives, for example:

1. using specific judicial offices to deal with pre-trial issues (delay mainly);
2. re-examining sentencing policy and its use as an effective tool to effect change;
3. considering, where possible, the use of judge-alone trials;
4. adopting coordinating institutions such as the Criminal Justice Board; and
5. adopting indicative guidelines for judgment delivery.

### **NPD Implementation**

Shortly after the Declaration was adopted, a Monitoring, Evaluation, and Facilitation Committee (MEFC) was established to assist in the encouraging implementation of the Declaration.

The Committee has discovered that significant steps to implement the recommendations contained in the NPD have already been undertaken in several jurisdictions. We were very pleased to hear from Sir Ian about the strides being made in the Bahamas on several fronts including legislation for judge-alone trials, plea-bargaining, and the establishment of a sentencing guidelines commission. We know that Belize has been very active and successful in using a Criminal Justice Board as the nerve centre for reform in that country. All stakeholders are present on the Board, which meets regularly to exchange ideas and to drive the reform agenda, which so far has overseen the adoption of plea-bargaining, as well as alternative sentencing legislation and robust case-management procedures.

The Committee is keenly aware that there are many relevant activities occurring in other jurisdictions – many of these activities started before, sometimes long before the Needham's Point

Declarations. We are actively seeking to develop an information system or database whereby we can compile information of all our efforts to advance the reform agenda.

There have also been well-publicised training events expressly geared to the implementation of the Declaration. Guyana will hold its criminal law justice reform conference to implement the Needham's Point Declaration on July 10-11, 2024, in Georgetown, and Belize will hold a similar conference on September 2-8, in Belize City. Hundreds of jurists are expected to attend each conference.

A final development to mention is that the Declaration is increasingly being adopted into the jurisprudence of the region. Cases from Dominica, Belize, Trinidad and Tobago, from the CCJ in litigation from Guyana have expressly adopted the Declaration: *The State v Andrew Armour DOMHCR20220002*. Per Colin Williams. *The King v Jeffery Gillett Indictment No 82 of 2022* Pilgrim J. Morgan J in *The King v Santiago Victorin Indictment No 8 of 2022* (Morgan J). *The King v Shawn Hertular Indictment No C3 of 2023* (Sylvester J) *The State v Andrew Armour DOMHCR20220002*. *Raymond Jordan v PC Ricky Isaac Mag. App. No. S005/2022*, (Mark Mohammed JA); *Roy Jacobs v The State (CCJ, on appeal from Guyana)*; *The State v Prisma Joseph DOMHCR20230015* (Colin Williams J).

We have found judicial citation of the Declaration to be very helpful in underpinning the Declaration's creditability and seriousness of intent in supporting the criminal justice reform agenda. We encourage colleague judges to reference the Declaration in their judgments whenever they consider it appropriate to do so.

Thank you.