

**PRESENTATION OF ATTORNEY GENERAL CLAUDE E. WALKER
DEPARTMENT OF JUSTICE'S FISCAL YEAR 2017 BUDGET
THIRTY-FIRST LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON FINANCE
JULY 6, 2016**

Good morning Mr. Chairman, Senators, legislative staff, and to those of you in the listening and viewing audience. My name is Claude Earl Walker, and I am the Virgin Islands Attorney General, and with me are several members of my leadership staff—Joseph Ponteen, the Chief Deputy Attorney General; Carol Thomas-Jacobs, Acting Deputy Attorney General; Pamela Tepper, Solicitor General; Quincy McRae, Chief of the St. Thomas Criminal Division; Esther Walters, Chief of the St. Croix Criminal Division; Ariel Smith, Acting Chief of the St. Thomas Civil Division; Kaj Christopher, Chief Financial Officer; Charlotte Poole Davis, Executive Director for the Paternity and Child Support Division; and Grethelyn Piper, Executive Director of the Civil Rights Division.

My staff and I are honored to appear before you today to share some of the many accomplishments the Department of Justice (“Department”) has achieved over the last year, as well as some of the struggles that we currently face. It is our collective intention today to defend Governor Mapp’s proposed budget for the Department. That proposed budget consists of \$15,531,583.00 from the General

Fund and Miscellaneous Appropriations, as well as \$4,954,306.00 from non-appropriated federal funds.

As you all know, the Department consists of eight divisions spread over two districts and is responsible for providing legal representation to the Government of the Virgin Islands—from civil and criminal matters to appeals and child support matters. Currently, the Department is staffed with 120 employees—down from 148 just last year—who are tasked with carrying out the Department’s mission which is codified at title 3 V.I.C. § 114. I will try not to belabor this testimony with dry recitations of facts that I am quite certain the Committee is already well aware of, but instead I would like to focus on each of those Division’s individualized needs and overall accomplishments for the past fiscal year. Let us begin.

DIVISION OF GENERAL LITIGATION SERVICES-CIVIL DIVISION

The Civil Division represents the Government in a diverse number of cases which varies in level of complexity. Currently, the Civil Division consists of five (5) assistant attorneys general –two (2) in St. Croix and three (3) in St. Thomas. Because of the number of cases filed yearly against the Government, the attorneys spend most of their time performing defense work for the Government. As of July 2016, approximately 153 new cases were opened territory-wide—65 in the St. Thomas/St. John District and 88 in St. Croix. In addition to the new cases recorded

territory-wide, the attorneys in the Civil Division continue to work on many active cases that were filed before fiscal year 2016.

Resolving claims and cases filed against the Government either by settlement, motion practice, or trial to limit or reduce the Government's liability is one of the main responsibilities of the Civil Division. For this fiscal year, some 85 cases have been closed to date—41 in St. Croix and 44 in the St. Thomas/St. John District. The value of settlements/judgments paid out of the judgment funds for this fiscal year totals \$345,067.71—\$260,646.51 from the over \$25,000 fund; \$39,649.70 from the under \$25,000 fund; and \$44,771 from the administrative tort claim fund of less than \$6,000.

Besides defending the Government, another important role of the Civil Division is to initiate suits on behalf of the Government and its agencies. This fiscal year the Civil Division initiated five (5) eviction actions and four (4) civil actions. The civil lawsuits include a suit against Sugar Bay alleging violation of the Plant Closing Act; a civil complaint against Takata and Honda, United States and Japanese entities, alleging that they engaged in unfair and deceptive trade practices by flooding the Virgin Islands with potentially deadly airbags; and an action against the Casino Control Commission ("CCC") to compel the CCC to comply with 32 V.I.C. § 514, by adding the Attorney General as a signatory on the Casino Control Revolving Fund account(s). Recently, the Civil Division also resolved a matter

brought under the Plant Closing Act against Trans-Caribbean Diaries, Inc. also known as St. Thomas Diaries. Thirty employees received almost \$280,000.00 in severances and outstanding vacation pay due to the untimely closing of that facility.

In April 2016, the Government decided to terminate the services of outside counsel who were previously representing the Risk Management Office of the Department of Health in medical malpractice cases against the hospitals and doctors insured under the Risk Management Insurance Scheme. 78 medical malpractice cases were transferred to the Civil Division. Of the 78 cases, 19 were filed in St. Thomas/St. John District and 59 in St. Croix. In addition to the transferred cases, the Civil Division also received an additional 10 newly filed cases.

In late May and early June, the Government hired two new attorneys for the newly created Medical Malpractice & Risk Unit (“MMRU”), a subdivision of the Civil Division, who are tasked primarily with litigating the medical malpractice cases. A Risk Manager for the MMRU was also hired to assist the efforts of the attorneys in this Unit. The Department of Justice Medical Malpractice Risk Unit will defend healthcare providers in multi-party complex tort litigation. It is anticipated that the Government will see significant savings within the first year of its operation. The savings will enable the Medical Malpractice Risk Unit to better fund its defense of healthcare providers with the use of stateside expert defense witnesses while providing a lesser cost to the taxpayers. In addition to the cost-saving goal, the

Medical Malpractice Risk Unit will recreate a Malpractice Board that consists of the Commissioner of Insurance, President of the VI Bar Association, President of the VI Medical Society, and the President of the VI Nurses Association who will work on reducing malpractice claims. In its brief existence, the Territorial Medical Malpractice Office has collected malpractice premiums in the amount of \$14,209.67.

Given the volume and complexity of this Division's work, it is strongly suggested that its current staffing levels be increased as follows: two (2) more attorneys on both St. Thomas and St. Croix; one (1) paralegal on each of the islands; and one (1) legal secretary for St. Croix.

DIVISION OF GENERAL LITIGATION SERVICES—CRIMINAL
DIVISION

The Criminal Division is, perhaps, the most widely recognized of all of the Department's divisions due to the nature of its work. Crime and violence continue to plague our streets. Unfortunately, much of this revolves around social and cultural components that must be solved by comprehensive approaches from not only the Government, but by every citizen of the territory. With that said, it is the Department's mission to ensure that crimes, when committed, do not go unpunished. To accomplish this, we currently have six prosecutors—including the Chief—working in the St. Thomas/St. John office, and we have nine prosecutors—including

the Chief—working from the St. Croix office. Additionally, there are two administrative secretaries, two victim advocates, and one intake officer assigned to the St. Thomas Criminal Division, while on St. Croix we have hired four administrative secretaries as well as an intake officer. The performance data for the two districts are as follows:

In the St. Thomas/St. John District:

- FY 2015 (covering the period from October 1, 2014 – September 30, 2015): 476 cases were opened.

Felony Cases Assigned—163

Misdemeanor Cases Assigned—242

Juvenile—71

Of the 405 adult cases filed in FY 2015: 290 are closed and 115 remain open.

- FY 2016 (covering the period from October 1, 2015 – to the present): 323 cases were opened.

Felony Cases Assigned—152

Misdemeanor Cases Assigned—144

Juvenile—27

Of the 296 adult cases filed in FY 2016: 59 are closed and 237 remain open.

In the St. Croix District:

- FY 2015 (covering the period from October 1, 2014 – September 30, 2015): 492 were cases opened.

Felonies—271

Misdemeanors—150

Juvenile—71

- FY 2016 (covering the period from October 1, 2015 – June 1, 2016): 181 cases were opened.

Felony cases filed—95

Misdemeanors—53

Juvenile—33

There are a total of 489 open cases on St. Croix.

Most recently, the Department adopted a new approach for success in the criminal courts. On April 18, 2016, it implemented direct efforts to improve the prosecutorial team effort with the V.I. Police Department by hiring an assistant attorney general on St. Croix to serve along with the police. Plans are also underway to hire a second assistant attorney general in the St. Thomas-St. John district to serve in the area of police affairs, as well. Some of the primary goals of this move are to: work with officers from the inception of their cases to reduce suppression issues following arrest; work with officers in the review and development of their probable cause fact sheets and affidavits to ensure legal sufficiency and, in turn, reduce dismissals; and to reduce suppression issues due to officers' errors on the scene of crimes by providing an on-call attorney in each district to provide legal advice on a

24-hour basis. Since its inception, our attorney has responded to 37 officer calls for legal assistance in their performance of duty, and reviewed 31 documents for legal sufficiency. Additionally, we have developed an organized mechanism for referring criminal cases for federal prosecution—both pre- and post-initiation. In that regard, from May 1, 2016 to present, we have referred eight cases in the St. Croix district alone, and two additional cases are currently being prepared for referral. Cases are being reviewed in the St. Thomas-St. John district for referral, but that process has been stymied by lack of staffing and the ongoing recruit class.

I cannot emphasize enough our need for more prosecutors to staff the Criminal Division. To give you some perspective, several years ago there were 12 attorneys working in the St. Thomas Office alone compared to only six today—and that includes the Chief of the Division who is not only responsible for the day-to-day activities of the Department, but who is also carrying a full courtroom caseload. We desperately need at least six to seven more to be able to function at maximum capacity.

SOLICITOR GENERAL'S DIVISION

The Office of the Solicitor General provides legal representation for the Government in all civil and criminal appeals, administrative matters, and writs of review. From July of last year until the present the attorneys working in this Division

have been assigned 94 new appeals. It is also this Division's role to ensure that complete, comprehensive, and well-researched opinions are offered when requested by not only the Attorney General, but from other executive agencies. To date, there have been 23 new opinions requested. While this number may not appear high, I can assure you, the time and effort that goes into a well-thought out opinion is time consuming and labor intensive.

In addition, the Solicitor General is responsible for reviewing leases and other documents for errors and legal sufficiency that are prepared for the government—including all government contracts. From July of last year there have been 150 new contracts assigned to attorneys working for the Solicitor General. Also, this Division must defend actions in front of the Public Employees Relations Board ("PERB"), as well as attend and advise various boards and commissions. From this time last year, the Division has represented the Government in 36 PERB actions and attended and advised 22 boards and commissions.

Not unlike other Divisions in the Department, the Solicitor is working with a skeleton crew and more staff is essential to handle the numbers of new and highly-complex legal issues that confront this office daily.

PATERNITY AND CHILD SUPPORT DIVISION

Currently, this Division is staffed by 48 individuals and during the latter half of the past year it saw its first major overhaul of the upper-management to include

the replacement of the Director, Assistant Director, Territorial Disbursement Manager, Program Administrator, and the Federal Grants Coordinator. Additionally, the Department launched “Operation Support our Children.” Together, these efforts have proved effective. Under the new management, staff have successfully addressed issues regarding the filing of local and federal reports—some of which had remained delinquent for more than two years—which is critical considering compliance with this is mandatory in order to receive federal monies. Additionally, both the Division’s security system and its CSTARs system are being upgraded. The security system will include, among other things, the issuance of picture ID cards which will help meet U.S. Internal Revenue Service compliance standards.

Also, as a direct result of “Operation Support our Children” there have been 23 license suspensions, and an additional 25 more are pending revocation for those non-custodial parents who have balances of \$2,500 or more and that have not either paid or entered into a payment plan. But, more importantly, the amount of outstanding uncollected child support money has significantly decreased.

These are the Paternity and Child Support Division’s (PCSD) quarterly total collections numbers, which include arrearages and regular monthly collections:

I can now report that PCSD has increased distributed child support collections by 9.3% during the October 1, to December 31, 2015 fiscal quarter, and by 12.7%

during the January 1, to March 31, 2016 fiscal quarter (the most recent data available at this time, as compared to the prior fiscal quarter.).

I am very pleased with this outcome on behalf of PCSD's customers, as it represents the first consecutive fiscal quarter increase in collections in comparison to both the prior fiscal quarters and the same fiscal quarters in the prior year since the successive quarter period of January 1, to June 30, 2009. PCSD has also increased its collections "From Other Sources" over the last six months to levels not seen since December 2012. I attribute this accomplishment to our special collection project that was initiated in September 2015, because the failure to utilize all available means, such as seeking driver's license revocation, to collect is inexcusable.

Our federal monitor has recently informed me that PCSD is currently moving in a very positive direction. I have served as the Attorney General for about 10 months, and have sought to make comprehensive changes at PCSD to better serve children who depend on us, and data is not always readily available. In fact, PCSD is currently in the process of completing the RFP for selecting a new vendor to manage PCSD's data, and this should be completed within a few weeks.

What I have learned from the "Operation Support Our Children Initiative" is that some of PCSD's arrears will never be collected because they are uncollectible – and this is not unique to the Virgin Islands. Many other U.S. jurisdictions have

adopted some version of an arrears compromise policy so that arrears that would not have accumulated in a perfect system can be fairly resolved, and I have tasked PCSD to work with our federal partners to create such a policy.

I am committed to maintaining this momentum on behalf of the children and families of the Virgin Islands. PCSD's mission is about collections, accountability to our customers, and transparency, and also about evenhandedness; and to some extent, the current PCSD data that I have inherited reveal how both custodial and non-custodial parents were not properly serviced in recent years.

Additionally, the Division recently passed a federal audit report assessment and initiated fatherhood classes. The fatherhood classes were initiated by the Department of Justice—as part of its “Operation Support Our Children” initiative—in conjunction with the Department of Human Services. These classes, which will be held each Tuesday and Thursday for eight weeks, are intended to help local fathers gain wisdom in fathering and a stronger appreciation for their role in the family. The curriculum for the course—called Quenching the Father Thirst: Developing a Dad—is based upon research conducted by the National Center for Fathering as well as experiences with court initiatives, and is designed to provide “culturally” relevant material that addresses many issues for fathers involving fragile families. Additionally, the program is structured to provide a framework for understanding the role of the father; address the systemic barriers to fathering; and

to provide training in specific skills to become the father their child needs. This research and theory-based curriculum will hopefully prove as an invaluable “tool to transform the dysfunctional father into a functioning father and the functioning father into a higher functioning father.”

DIVISION OF GAMING ENFORCEMENT

The Division of Gaming Enforcement (“DGE”) serves as the investigative and enforcement arm of the Casino Control Commission. Since November of 2015, the DGE opened 149 casino employee license application investigations. During the same period, the DGE completed approximately twenty (20) casino employee background investigations and transmitted its investigative reports regarding these applicants to the Casino Control Commission (“CCC”) for final action regarding licensure of these applicants. The DGE also assisted the CCC in resolving the status of approximately 50 outstanding casino employee license applications.

The DGE has undertaken a review of the files concerning approximately fifteen (15) Casino Service Entity Licensees. Approximately twelve (12) of these entities have licenses that have expired or are expiring within six (6) months. Renewal investigations have been opened for each of these entities.

From November 2015 to January 2016, in advance of the Casino Control Commission's issuance of a casino license to VIGL Operations, LLC to operate a casino at the Caravelle Hotel in the Christiansted Enterprise Zone, the DGE worked with Spectrum Gaming Group to complete probity investigations involving six (6) entity qualifiers and six (6) natural person qualifiers. The DGE is currently conducting its investigation of the Casino License Renewal Application of Treasure Bay V.I. Corp. and Grapetree Shores Inc., and all relevant parties associated with these applications. Additionally, the DGE resolved one (1) patron complaint; completed the investigation of two (2) internal complaints; and successfully presented three (3) matters for hearing before the Casino Control Commission's Independent Hearing Officer, including a petition for an order expelling a patron from the Divi Carina Bay Casino for five (5) years.

With the assistance of Gaming Laboratories International, the DGE completed required verification and testing of seventy-one (71) newly imported electronic gaming machines and two (2) redemption kiosks at the Caravelle Hotel, and verified and tested eighteen (18) machines and approved the movement of an additional fifteen (15) machines at the Divi Carina Bay Casino and facilitated several machine RAM clears at both the casinos.

The DGE's other activities include reviewing monthly and quarterly financial reports from the casinos to assure that there are no questionable financial

transactions. Divi Carina Bay Casino, Divi Carina Bay Resort, and the Caravelle Hotel, now employ over 300 employees, with a high rate of turnover. The DGE's staff currently expends the majority of their time conducting background investigations regarding each and every one of these individuals for their initial licensure as well as conducting follow-up investigations when their licenses are up for renewal. In addition, the DGE must investigate each of the entities that provide services to these companies, from food service providers, to construction companies, to fuel providers, to workers' unions seeking to represent the employees.

Currently, the DGE is staffed by an Acting Director and a Gaming Technician. At the current staffing levels, these investigations take months longer than they should. In order to function effectively and efficiently, and to start building a Division with trained personnel that will be prepared to handle the continued expansion of the gaming industry in the Virgin Islands, the Division should be staffed with no fewer than five (5) employees. The expansion of the gaming industry in the Virgin Islands also necessitates a major technological overhaul of the systems currently in place to streamline the intake, tracking, and processing of license applications and investigations. The DGE has sought quotes from various companies specializing in providing these services. Addressing the Division's staffing and technological deficiencies is imperative to meeting the ever-increasing responsibilities related to the regulation of the gaming industry in the Virgin Islands.

These advancements are vital to the Virgin Islands maintaining a reputation as a respected regulatory environment where gaming is conducted with the highest

BUREAU OF INVESTIGATIONS

This unit, which is made up of offices and staff in St. Thomas and in St. Croix, is responsible for all investigations, civil and criminal, routine and complex, from money laundering and embezzlement to tort claims and consumer fraud. In addition, Bureau staff aid and assist Assistant Attorneys General in locating witnesses and victims in preparation for trial, serve subpoenas and discoveries, transport witnesses and victims to and from court, and conduct background investigations.

With the creation of the Forensic Unit, the Medical Malpractice Unit and the enhancement of the White Collar/Public Integrity Unit the need for greater staffing is urgent. This unit is currently operating with a staff of only two on St. Croix, including the Director, and two on St. Thomas, including the Special Agent in charge. Recently, the Bureau has hired two new agents on the island of St. Thomas and is in the process of hiring one new agent for St. Croix—but more will be needed.

Performance data for the Bureau is as follows:

- Subpoenas served: 249 for St. Croix and 449 for St. Thomas.
- Discoveries: 170 for St. Croix
- Bodies recovered: 142 hospice and 23 Medical Examiner cases for St. Croix; and 165 hospice and 90 Medical Examiner cases for St. Thomas
- New cases: 51 for St. Croix and 28 for St. Thomas
- Witness Protection assignment: 2 for St. Croix

These numbers should reflect the immediate need for more agents. It is important to bear in mind that tracking and finding just one individual to serve a subpoena—especially for one that does not want to be served—is time consuming, taxing on the vehicles, and, in some cases, extremely dangerous. Multiply this number by nearly 700 and it is easy to see that this is a difficult task for only a handful of individuals. Not to mention, these same agents must actively investigate cases, and serve discoveries—all while being torn away frequently from what they are doing to have to retrieve bodies and be present for autopsy. It is one thing to look at numbers, but I urge this body to truly contemplate the time, effort, resources, and manpower that goes into each and every one of those numbers.

Having said that, the most immediate needs for the Bureau include three additional agents for St. Croix; new and badly-needed equipment such as ammunition, bullet proof vests, radios, retractable batons, and surveillance equipment; as well as funds for training in the areas of interrogation, surveillance, investigations, and report writing.

OFFICE OF THE MEDICAL EXAMINER

The Medical Examiner's Office experienced some set-backs after Dr. Landron—the former Medical Examiner was on leave. The Office struggled with finding qualified pathologists from around the country to come to the territory for short periods of duration. However, in January of this year we were successful in

finding a well-qualified and competent forensic pathologist to replace Dr. Landron and to permanently fill the position of Medical Examiner. Dr. Vincent Hill is a board-certified forensic pathologist having graduated from the Howard University Medical School. He has been instrumental in eliminating delays in forensic autopsies, sign-outs, and death certification—with autopsy reports typed within 5 days after completion of the autopsy—all of which helps ease the suffering of a grieving family. In late 2015, Dr. Hill performed seven autopsies in St. Thomas, seven on St. Croix, and one from St. John. To date, in 2016, Dr. Hill performed 28 autopsies in St. Croix, 41 autopsies in St. Thomas, and two that were from St. John.

Since taking office, he has created a standardized autopsy report template; as well as establish a case numbering system that allows distinguishing cases between the three islands.

Additionally, Dr. Hill has established a teaching format for investigating officers who are present during the forensic autopsy procedure, and initiated efforts to ensure written documentation of the scene investigation will be available prior to the performance of the forensic autopsy in order to be in compliance with national standards established by the U.S. Department of Justice.

Dr. Hill's future vision for the ME's Office includes: establishing formal didactic lectures in forensic pathology; establish a removal system (body pick-up and transport) that does not depend on one person; and to create an effective policy

and procedure manual. The immediate needs of this department include the following: four autopsy tables and an equal number of bone saws; four autopsy work stations—which includes such things as dissecting boards, dissecting scissors, and rib cutters. Additionally, we would request funding for a space capable of refrigerating 20 bodies; sex kits; body bags; DNA kits; dental imaging; and a radiology room with x-ray equipment and lead aprons.

GRANT FUNDING

Grant funding provided to VIDOJ assists the Department with the successful administration of justice and the implementation of specialized programs and partnerships that assist the Virgin Islands in providing public safety services and resources. Among the grants received by the Department are the Puerto Rico/Virgin Islands High Intensity Drug-Trafficking Area. Costs associated with this program for the Virgin Islands total \$84,731.00 to include salary, fringe and COLA as required through the program. The Virgin Islands Department of Justice has been awarded funding from the US Department of Justice National Institute of Justice, Paul Coverdell Forensic Science Improvement Grants which totals \$185,811. And, the Virgin Islands Department of Justice, by statute, has been designated as the lead agency to implement the requirements of the Sex Offender Registration and Notification Act (SORNA). It has been provided \$1,128,718.00 to support the

implementation and maintenance of the requirements under the Adam Walsh Child Protection and Safety Act of 2006 and the SORNA requirements.

CONCLUSION

As I stated earlier, much of the data that I have given you is simply represented by a number—whether it be a criminal case filed, a subpoena served, or new appeal just opened—but, again, please take a moment to actually contemplate the time, the resources, and the long hours each of those numbers actually represent. Our material resources are limited and we are in desperate need of additional manpower—we therefore urge this Committee to approve the Department budget which the Honorable Governor Kenneth E. Mapp has proposed. After all, the Department of Justice represents the last best hope many of our citizens have in order to receive child support; seek restitution from former employers; vindicate the loss of a murdered loved one; and, in short, to receive the justice that is owed to them.

With that, I again want to thank the Committee for allowing me and my staff to come before you and we are now available for any questions the members of this Committee may have.