

**PRESENTATION OF ATTORNEY GENERAL NOMINEE  
GORDON C. RHEA  
DEPARTMENT OF JUSTICE'S OPERATIONAL STATUS  
THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS  
COMMITTEE ON HOMELAND SECURITY, JUSTICE,  
AND PUBLIC SAFETY  
SEPTEMBER 10, 2024**

Good morning, Chairperson Kenneth L. Gittens, Committee on Homeland Security, Justice and Public Safety members, other Senators, legislative staff, and the listening and viewing audience. I am Attorney General Nominee Gordon Rhea. It is a pleasure to appear before you to address the current operational status of the Department of Justice.

The Department of Justice has a myriad of responsibilities. To accomplish its goals, the Department is comprised of several divisions, staffed by 155 employees including attorneys, support staff, and investigators. The Criminal Division prosecutes violations of the Virgin Islands Criminal Code; the Civil Division represents the Government in litigation, whether brought against the Government or by the Government, and in civil rights challenges, consent decrees, and enforcement actions; the Solicitor General's Division reviews all government agency contracts, handles all appeals, prepares legal opinions, advises boards and commissions, and represents the government in bond matters; the Paternity and Child Support Division

aids vulnerable children and facilitates children's visitation with non-custodial parents; the Office of the Medical Examiner secures corpses and performs autopsies to determine the medical cause and manner of death of anyone who dies under unusual or suspicious circumstances; pursuant to the Sex Offender Registration and Notification Act, the SORNA Department registers and tracks sexual offenders and maintains a public registry website identifying offenders; the Division of Gaming Enforcement investigates casino employees and those seeking casino licenses and tests electronic gaming machines; the Special Investigations Division investigates fraud, white collar crimes, and public corruption, makes arrests, serves subpoenas, and helps protect victims and witnesses; the Family Division represents the Department of Human Services in family court and prosecutes juvenile delinquency cases with the aim of rehabilitating youthful offenders; the Medicaid Fraud Control Unit (MFCU) investigates and prosecutes entities responsible for improper or fraudulent Medicaid billing schemes; and our Victim Advocates Program helps ensure the safety and well-being of victims. Finally, an IT Unit, Human Resources Unit, and a Budget and Accounting Unit perform functions critical for the management and running of the Department.

The DOJ faces several challenges that I have been working to address since my appointment to head the Department almost four months ago. Even though the

Justice Department, the United States Attorneys Office, the Virgin Islands Police Department, the Federal Bureau of Investigation, and the Superior and Federal Courts share a common mission of fighting crime and promoting justice, they have seldom worked as a team to achieve those goals. I have initiated efforts to encourage us to cooperate to achieve our common purpose. For example, DOJ is now meeting with the VIPD to devise systems to quickly get arrest reports, witness and victim contacts, body cams, and forensic evidence to enable it to evaluate cases at an early juncture and to give defense attorneys the discovery necessary to promptly negotiate pleas, diversion programs, or other dispositions, thereby reducing the court's overwhelming case load while at the same time advancing our law enforcement goals. We have also been holding meetings between prosecutors and police to jointly determine how best to achieve much-needed cooperation in preparing cases for trial.

I have also met with the United States Attorney and her criminal chief to discuss working together in complex cases, such as embezzlement of Federal funds or violations of both Federal and territorial laws. The advantages are tremendous, as many of these cases require costly forensic analyses, which the Federals can perform at no cost to us, and which can best be investigated and tried through the joint efforts of local and Federal investigators and prosecutors. In addition, the Chief Territorial Public Defender and I have met and discussed how to reach early

dispositions, such as pretrial diversion or probation in non-violent criminal cases and cases involving youthful defenders. I have spoken with several Superior Court judges about expanding diversion programs and probation for non-violent or youthful offenders to help them avoid the lifetime stigma of a criminal conviction and improve their lives through counseling, drug and alcohol treatment, or other programs to guide them in becoming lawful and productive citizens. Importantly, such dispositions will help unclog judicial calendars, give prosecutors more time to focus on violent and repeat criminal offenders, and provide young and non-violent offenders opportunity to clean up their lives.

The Department urgently needs to fill numerous vacant positions. For example, the Solicitor General formerly had a staff of twelve attorneys to help with her massive load. Now the office is manned only by the Solicitor General, one attorney to assist her, and a support staff of three. The Criminal Division is likewise understaffed; the ideal arrangement would be for two assistant attorneys general to cover each courtroom, but reaching that goal requires hiring seven additional attorneys. The White-Collar Crime and Public Corruption Unit, which is mandated by statute, is staffed by a Director and a single Assistant Attorney General on loan from the Criminal Division. Major staffing deficiencies also plague the Paternity and Child Support Division, the Medicaid Fraud Control Unit, the Division of

Gaming Enforcement, the Special Investigations Division, the Office of the Medical Examiner, and the Office of Sexual Offender Registry. The Civil Division has done a spectacular job over the past two years, bringing in tens of millions of dollars in settlements from the likes of JP Morgan Chase, Walgreens, CVS Pharmacy, Walmart Corp., Teva, Allergan, and Google. However, it too would profit from the addition of more attorneys. I am well aware of these needs and have been working with our Human Resources and Finance Departments to attract talented new employees and find ways to fund their employment.

Another critical need for DOJ is an IT case management system to eliminate the need for paper files; expedite the exchange of data with the police, Federal prosecutors, and defense attorneys; and alert prosecutors that court filings are coming due. I am working to have in place within a year a modern case management system tailor-made to accommodate the various needs of our many divisions. In addition, I am arranging training programs for our attorneys. The National Association of Attorney Generals – called NAAG for short – supplies excellent training programs for prosecutors and staff, both remotely and in person. I am in discussions with NAAG to determine the best programs for us and to obtain dates for the training sessions.

The Department's proposed budget for FY-2025 is \$26,253,761, \$7,421,898 of which is projected to be funded by Federal grants. This budget is 5.59% less than the Department's FY-2024 budget, and the workload is increasing. Accordingly, we have attempted to locate additional funding through grants and settlements, to implement cost-saving technological advancements, and to collaborate with our partner agencies to create synergies as I described earlier.

You had requested that I highlight developments in the criminal, white collar, and civil divisions and that I report on the state of the new morgue on St. Croix.

### **CRIMINAL DIVISION**

The Criminal Division has 18 prosecutors, ten in the St. Thomas District, including the Criminal Chief, and seven support staff, including a Victim Services Coordinator and a Victim Advocate. The St. Croix District has nine prosecutors, including the Criminal Chief and Deputy Attorney General Appleton, and six support staff, including one Victim/Witness Advocate.

The Division handles a significant caseload. In St. Thomas during this past year, ten prosecutors attended 3,420 court hearings, opened 213 cases, and resolved 205 cases. Four of those resolved cases involved homicides, 121 involved crimes of violence, 68 involved domestic violence, six involved sex crimes, and 37 involved firearms. The St. Croix District has 678 active cases and opened 334 cases this past

year, including 11 murder cases. 370 cases were resolved. St. Croix prosecutors attended 5,054 hearings.

Family Court attorneys opened 34 cases and resolved 22 cases. They also attended the 46th Annual National Association of Counsel for Children Child Welfare Law Conference in Minneapolis, MN (on scholarship) and the 2nd Annual Child Welfare Academy conducted by the Court Improvement Project of the Virgin Islands Superior Court. The Territory needs additional resources for youth in need and to develop practices and protocols related to the new Behavioral Health Act.

The Criminal Division's goals for the next fiscal year include (1) greater emphasis on the initial stages of cases to improve case disposition time, (2) modernizing the Division by implementing the case management system, (3) attorney and support staff training, (4) integrating the victim advocates into the trial teams, (5) increasing emphasis on domestic violence, (6) increasing emphasis on mental health defendants, and (7) continued and sustained outreach to build and maintain DOJ/VIPD and DOJ/USAO relationships.

The Division has critical staffing needs. For example, the St. Thomas District requires four more Assistant Attorneys General and another Victim Witness Advocate, and the St. Croix District needs three more Assistant Attorneys General

and a paralegal. If this Body passes a Speedy Trial Act, the DOJ's staffing needs will increase still more.

The number of defendants with acute mental health issues in the Territory is extreme; many are treated at the Bureau of Corrections, which lacks sufficient mental health capacity. The progressive Behavioral Health Act passed last year calls for a local treatment infrastructure, which does not yet exist. In sum, the Territory lacks sufficient mental health professionals to meet the requirements imposed under the new law, and DOJ's partner agency, the Department of Health, also chronically lacks resources.

### **WHITE COLLAR CRIME AND PUBLIC CORRUPTION UNIT**

The White-Collar Crime and Public Corruption Unit desperately needs attorneys and material resources. The Unit is staffed by its Director in St. Croix who is assisted by a Criminal Division Assistant Attorney General in St. Thomas. The Unit lacks its own Assistant Attorneys General and to this end would like to add at least one dedicated white-collar/public corruption attorney to each District, a forensic accountant, and an Electronic Crime Analyst skilled in extracting data from cell phones, computers, and other electronic devices.

Title 3 of the Virgin Islands Code, Section 1105, requires every public agency salaried appointed officer exempt from the Personnel Merit System to file a report



disclosing certain financial interests. The Department wants to put teeth into this requirement and to do so needs a Litigation Specialist to review and analyze the reports. Along those same lines, this Body has proposed Bills 35-227 and 228 to establish a Commission on Ethics and Conflicts of Interest and which define the DOJ's role in prosecuting ethics and conflicts cases. We wholly support this Body's efforts to strengthen ethics and conflicts enforcement and have suggested revisions to those Bills to make the effort more efficient and effective. Our White Collar Crime and Public Corruption Unit would play a major role in this endeavor.

### **CIVIL DIVISION**

The Civil Division represents the Government's agencies, departments, boards, and commissions in all civil litigation filed in the Superior and District Courts of the Virgin Islands, administrative tribunals (such as BLUA), and in Federal courts in other U.S. jurisdictions, including the District of Columbia and the Southern District of New York.

These cases are often very time-consuming and raise complex issues requiring special expertise. The attorneys and support staff devote considerable time to defense litigation, given the number of cases filed against the Government each year. However, we also bring suits in appropriate cases.

Currently the Civil Division consists of eight Assistant Attorneys General Territory wide, including the Civil Chief and four legal assistants. Civil attorneys are assigned to matters territory wide, although three attorneys are in the St. Thomas-St. John District and five are in the St. Croix District. One attorney defends medical malpractice cases filed against the government and healthcare providers employed by the government and acting within the scope of such employment during the alleged occurrence. Additionally, there are four support staff—two in each District.

There are 255 active cases in the Civil Division. Each attorney has an average of 40 cases, including three longstanding consent decree matters. In addition, the Civil Division defends other matters which are not formally counted in its case totals: 1) third-party subpoenas of employees or agencies for testimony or records; 2) third-party depositions; 3) public record/FOIA requests actions. The Civil Division also reviews and acts on Administrative Tort Claims, which are filed by citizens seeking compensation from the Government for wrongs, without litigation; 4) issues CIDs (Civil investigation demands) and other pre-suit investigations; 5) reviews police internal affairs records and responds to *Brady/Giglio* requests in criminal matters set for trial in the federal court.

The Civil Division has been expanding its practice to include more consumer protection matters, which include law enforcement actions on behalf of consumers

subjected to fraudulent business practices, defective products or services, scams, or dangerous goods and services. Consumer protection efforts even the playing field between businesses and consumers and help ensure public safety by providing a voice to vulnerable consumers targeted by unscrupulous practices and least likely to have the resources to vindicate their rights against large companies or corporations with seemingly bottomless legal resources. As a side note, the Virgin Islands is one of only four jurisdictions that does not include a consumer protection section as part of its attorney general's office law enforcement operations. Thus, we work alongside DLCA, which has statutory authority to take necessary action. As part of the Civil Division's future growth, we are training the entire division in consumer protection law. Six of the division's eight attorneys have now been trained, and we expect to complete the training process by 2025.

Presently, the Virgin Islands Department of Justice participates in multi-district litigation seeking redress for consumer harm in a number of areas. Additionally, in conjunction with the State Energy & Environmental Impact Center at the New York University School of Law, the Division hopes to place an Environmental Law Fellow as an Assistant Attorney General devoted to the practice of environmental law. This position would be funded 100 percent by NYU Law.

## **ST. CROIX MORGUE**

My predecessors had arranged for the purchase of a modular mobile morgue and autopsy suite for use by the Medical Examiner's Office on St. Croix. For the past year, the modular morgue has been stored at the Port Authority dock on St. Croix, where it has sustained damage from the elements. To serve the island until the modular morgue could be relocated and made operable, DOJ entered into a Memorandum of Understanding (MOU) with Juan F. Luis Hospital (JFLH) on St. Croix, in which the hospital agreed the Medical Examiner's Office could use its suit to perform autopsies. JFLH's facility, however, is not currently operable, and JFLH cannot guarantee when necessary repairs will be completed. In the interim, bodies on St. Croix requiring autopsies by the Medical Examiner's Office are being flown to the Medical Examiner's operable St. Thomas facility, where autopsies are performed. The bodies are then transported back to St. Croix.

Solving St. Croix's lack of a functioning autopsy suite ranks high among my priorities. We are currently working with DOH on St. Croix to relocate the modular morgue to a secure lot owned by DOH and are hoping to finalize those negotiations soon, move the mobile morgue to the new location, and complete any necessary repairs. If JFLH's autopsy suit is repaired before the mobile morgue is fully functional, we will rely on our MOU to begin performing autopsies at JFLH.

While the Medical Examiner's Office cannot currently perform autopsies on St. Croix, bodies can be safely stored there. The DOJ's mobile refrigeration unit is currently located at JFLH, is attached to a generator in the event of a power outage and can hold some 60 bodies. DOJ also has a contract with Tropical Shipping in which the company has made available refrigerated trucks that can each hold 50 to 60 bodies, depending on their size. We have used the trucks in past emergencies and can do so again if necessary.

I would like to take this opportunity to thank all of the employees at the Department of Justice who work tirelessly on behalf of the people of the Virgin Islands despite our many challenges. Your hard work does not go unnoticed.

I thank this Committee for the opportunity to present to you the current operational status of the Department of Justice. I am ready and willing to answer any questions you might have.