

**PRESENTATION OF ACTING
ATTORNEY GENERAL CAROL THOMAS JACOBS
DEPARTMENT OF JUSTICE’S UPDATE FOR CURRENT FISCAL YEAR
THIRTY-FIFTH LEGISLATURE OF THE VIRGIN ISLANDS
COMMITTEE ON HOMELAND SECURITY,
JUSTICE & PUBLIC SAFETY**

Good afternoon Chairman Gittens, members of the Committee on Homeland Security, Justice & Public Safety, legislative staff, my team at the Office of the Attorney General, and to those of you listening and viewing today. My name is Carol Thomas-Jacobs, and I am the Virgin Islands Acting Attorney General. Appearing with me in-person today are members of my management team: Deputy Attorney General Eric Chancellor; Chief Financial Officer Kaj Christopher; the Director of Operations, Monique Simon; and Acting Director of Paternity and Child Support (“PCSD”), Kathryn DeLugo.

The purpose of today’s hearing is to update this Committee on the status of the Office of the Attorney General (“OAG” or “Department”). As many of you are aware, the OAG consists of several divisions spread over two districts and each contribute to fulfill, among other things, its mission to prosecute all violations of the Virgin Islands Criminal Code; to represent the Government, its agencies and officials in all civil actions; to ensure the provision of financial child support and access and visitation services in the best interest of the children of the Virgin Islands; and to perform all other responsibilities set forth in Title 3 V.I.C. § 114. Each of

our divisions provides services that impact the daily lives of the people in the community we serve. Today, the OAG is staffed with 157 individuals—93 in the St. Thomas/St. John District and 64 in the St. Croix District. While the OAG has made great strides in recruitment, it still needs more attorneys and support staff to provide the most effective service to our Virgin Islands community.

CRIMINAL DIVISION

The Criminal Divisions in each district remain committed to seeing that justice is rendered fairly without fear, favor, or prejudice. The ethical and legal responsibility of the attorneys who work in these divisions must be unequal; for in their hands rests the power to take away that which we hold most sacred—an individual's right to freedom and property.

Today, the Criminal Division in St. Thomas is staffed with 13 attorneys—including the Chief of the Criminal Division—as well as four support staff. For the first time in many years, the Criminal Division in St. Thomas is able to assign two attorneys to each courtroom. The St. Croix Division is staffed with 10 attorneys—including the Chief of the Criminal Division and the Director of White Collar and Public Corruption—along with six support staff. The Director of White Collar and Public Corruption, prosecutes primarily white-collar criminal cases in both districts but also assists with non-white collar criminal cases in the St. Croix District. The

Deputy Attorney General in St. Croix also prosecutes major criminal cases. I am pleased to announce that within the last five months, the St. Croix Division has hired three new prosecutors. This is a major accomplishment that allows that division to get closer to meeting the elusive and longstanding goal of having two prosecutors assigned to each courtroom in St. Croix. These hirings also help to reduce the overburdensome caseloads of the St. Croix Division attorneys.

Also, operating within the Criminal Division is the Family/Special Victims Unit which handles a large caseload of Family Court matters including: juvenile delinquency, child protection in abuse and neglect matters, guardianship, and involuntary commitments. The Family Court in each district now has two attorneys who are specifically assigned to handle these matters. Three more prosecutors are needed in the St. Croix District to meet the two attorneys per courtroom threshold, and to further reduce the individual caseload of each attorney. In addition, the Department needs another white-collar prosecutor, as well as attorneys who specialize in Domestic Violence, Homicide, and Child and Sex Crimes – for a total of seven more prosecutors needed.

The St. Thomas/St. John Criminal Division has opened 92 cases and closed 60 since October 2022. During that same period, it has taken seven matters to trial (including two homicide cases). I am proud to say that the prosecutors obtained

convictions in both homicide cases. As of today, the St. Croix Criminal Division has opened 121 cases and managed to close 92 cases during this fiscal year. Most of the cases in the St. Croix Division that were set for trial were resolved by plea. The criminal divisions are working with the Virgin Islands Police Department (“VIPD”) to improve the overall quality of the cases that are sent to the OAG for prosecution. The Department’s objectives are to reduce the number of continuances needed based on discovery issues, to help determine during the pre-trial phase of the prosecution which matters can be resolved short of trial, and to ensure that those matters not resolved by plea will be ready for trial. To accomplish these goals, we are working together with the VIPD to, among other things, ensure evidence that needs off-island testing is immediately sent so that the results may be received before the time of trial. The VIPD has answered our call and, to date, the quality of the cases now being submitted to our assistant attorneys general has drastically improved.

CIVIL DIVISION

The Civil Division is tasked with representing the Government, its officers, employees, executive agencies, boards, and commissions. The work these attorneys handle can be relatively straightforward—such as settling an administrative tort claim for a fender-bender; to highly complex tax cases or civil actions brought under

the Criminally Influenced and Corrupt Organization Act that involves millions of dollars.

This division has 7 attorneys—including the division's Chief. Three attorneys are in the St. Thomas/St. John District and four attorneys are in the St. Croix District. One attorney is specifically assigned to defend medical malpractice cases brought against government health care providers on behalf of the Department of Health. It also has 4 administrative support staff—two in each district. Since October of last year, the Civil Division has been tasked with defending thirteen new cases that were filed against the Government or one of its instrumentalities. In addition to the new cases filed this fiscal year, the Civil Division continues to represent the Government in 181 active pending cases, not including representation in third-party subpoenas and depositions and responding to open record requests. Given the complexity and number of matters handled by the Civil Division, at least two additional attorneys are needed in the Civil Division.

SOLICITOR GENERAL DIVISION

The Office of the Solicitor General provides legal representation for the Government in all appeals, administrative matters, and writs of review. It is currently staffed with 5 attorneys—including the Solicitor General—as well as 3 support staff. From the beginning of this fiscal year until the present, the attorneys

working in this Division have been assigned 15 new appeals to either the Virgin Islands Supreme Court or the Third Circuit Court of Appeals. Additionally, this Division is responsible for providing legal opinions when requested by any of the various boards, commissions, and executive branch agencies. For this fiscal year, there have been four new opinions requested with three closed.

The Solicitor General is also responsible for reviewing many contracts, leases, and other documents for legal sufficiency that are prepared for the government. This fiscal year there have been 68 new contracts assigned to the Division with 62 of them now closed. The Solicitor General Division has streamlined the contracting process so that contracts are often processed in less than 48 hours. Also, this Division must defend actions in front of the Public Employees Relations Board (“PERB”), as well as attend meetings to advise the various boards and commissions which, on average, numbers around 20. With the amount of work in the Solicitor General Division, at least two more assistant attorneys general are needed.

MEDICAL EXAMINER’S OFFICE

The Medical Examiner’s Office (“ME”) is responsible for the investigation of a “violent death, whether by criminal violence, suicide or casualty; a death caused by unlawful act or criminal neglect; [and] death occurring in a suspicious, unusual or unexplained manner...” Today, the ME’s office consists of one long-term

Medical Examiner and another medical examiner who performs autopsies when called upon to do so. The Medical Examiner's Office has three employees in the St. Thomas/St. John District and two in the St. Croix District who assists the MEs. The Department needs two more medicolegal death investigators with one in each district. Also, we continue to proactively seek another full-time forensic pathologist.

From October 1st through the end of December, 2022, the ME's office has picked up 70 bodies and performed 17 autopsies—including seven where the manner of death was declared to be homicide. When needed, a resident of St. John supports the Medical Examiner's Office by picking up bodies of persons who died in St. John. Since July 2022, all persons who died in St. Croix and who the Medical Examiner determined an autopsy was necessary were transported via chartered flight to St. Thomas so that the autopsy could be performed in the St. Thomas facility. After the autopsy is performed, the body is returned to St. Croix and turned over to the family. This process is generally a 24-hour turnaround. To date, 23 persons who died in St. Croix were transported to St. Thomas to be autopsied.

The OAG has been working diligently to procure and install a fully equipped turnkey modular Medical Examiner Office in St. Croix. The modular structure is complete. It is 60'x 40', or in other words a 2,400 sq. ft. structure. It consists of a lobby and reception area, viewing room, two medical examiner's offices, an autopsy

room with double bays so two autopsies can be performed at the same time, public restroom, staff rest room, clean room, office for medicolegal death investigators, and walk-in cooler and storage closets for equipment and supplies. All the equipment for the modular Medical Examiner Office has been purchased. The modular structure was picked up from the factory on or about January 31st and will be shipped from the Port of Jacksonville, Florida. It will arrive in St. Croix before the end of February. To date, the Government has paid \$1,056,749.87 to the contractor. The next phase of the project is the installation of the modular facility which will include but is not limited to: earthwork; construction of footings; plumbing and electrical work; construction of steps and ramps; and installation of canopies, medical equipment and a fire alarm system. The cost for the final phase of this expedited project has not yet been agreed to. However, what we do know is that additional funds will be needed to complete the project. A good start would be allowing the OAG to use all the funds appropriated by Act. No. 7810 towards construction of the morgue rather than limiting it to 50% of morgue operations. The project should be completed and the modular morgue facility fully operational in about two and a half months after the structure arrives in St. Croix. We have been informed that if the building is well maintained, its life span is between 25-30 years. Thus, I urge the

Legislature in the next budgeting cycle to set aside funds for the maintenance and upkeep of both medical examiner facilities.

MEDICAID FRAUD CONTROL UNIT

The Virgin Islands Medicaid Fraud Control Unit (“MFCU”) was established pursuant to federal legislation and is 100 percent funded from a grant awarded to the Territory by the United States Department of Health and Human Services, Office of the Inspector General. Its primary mission is to investigate and prosecute fraud and abuse in the Medicaid program, which includes fraud in the administration of the program and fraudulent activities by health care providers. In addition, MFCU investigates allegations of abuse and neglect of persons in room and board and/or healthcare facilities, and other living arrangements. To date, it is staffed with a special agent, an auditor, a litigation specialist, and an Attorney/Director. In its four-year lifespan, the MFCU has partnered with the U.S. Department of Justice to create a Health Care Fraud Task Force and has been responsible for several Medicaid fraud prosecutions. It continues to investigate allegations of Medicaid fraud and instances of abuse and neglect.

DIVISION OF GAMING ENFORCEMENT

The Division of Gaming Enforcement (“DGE”) serves as the investigative and enforcement arm of the Casino Control Commission (“CCC”), ensuring compliance

with the Virgin Islands Casino and Resort Act of 1995 (“VICRA”). Its principal mission is to ensure and maintain integrity in the operation of our casinos. The DGE is presently staffed by the Director and three employees. To date, some of the many accomplishments of the DGE for this fiscal year include:

- Opened approximately forty-seven (47) employee application files;
- Completed and transmitted to the CCC fourteen (14) Casino Servicing Entity and Qualifier’s due Diligence Investigations;
- Opened twenty-one (21) Casino Servicing Entity and Qualifier files;
- Completed three (3) investigations and working on four (4) investigations regarding complaints of violation of VI Casino laws and rules and regulations; and,
- Received and attended to Twenty (20) requests for assistance from the casinos regarding servicing Gaming Machines prior to placement or return on the Gaming Floor.

The DGE’s greatest struggle is with staffing. It is difficult to meet the statutory requirements in a timely fashion and the addition of two more employees to assist with investigations and administrative duties would enhance productivity.

PATERNITY AND CHILD SUPPORT DIVISION

The Paternity and Child Support Division (PCSD) is devoted to providing many of our community's children with the support they need to help them thrive and become responsible and successful adults. PCSD functions include: the establishment of paternity; enforcement of support obligations; implementation of centralized collections process; distribution of support payments; and the establishment and maintenance of case records. PCSD receives a separate grant which focuses on Access and Visitation Program services, facilitates mediation, and promotes fatherhood programs which are free of charge and administered by the Access and Visitation Team. PCSD's primary funding source is the federal government, which funds 66% of all PCSD staffing and 100% of all PCSD federally approved expenditures. As such, PCSD must meet minimum established criteria which, if not met, can put federal funding and support in jeopardy.

Currently, PCSD has 54 employees, which include all attorneys, support staff, and hearing officers. Specifically, there are two attorneys assigned to the St. Croix District and one to the St. Thomas/St. John District; there are 17 support staff stationed in the St. Croix District and the remaining 32 are assigned to the St. Thomas/St. John District. Additionally, there is one administrative hearing officer in each of the two districts. While we have made strides with the hiring of

employees, PCSD is still five short of the necessary level to meet federal requirements. We continue to work to fill these positions.

There are currently 7,323 active cases in PCSD, of which 633 were opened this fiscal year. The undistributed funds as of the end of last December total \$1,273,078. In December, PCSD collected \$619,955 and distributed \$468,684, a 2% increase over November. Aside from its staffing needs, PCSD must also interface or have connectivity with certain other government agencies to increase the effectiveness of its administrative enforcement measures and enhance the accuracy of mandated reporting.

At this point, I would like to remember two employees of PCSD who died within weeks of one another late last year. The Director of PCSD, Terrance Joseph, and the Territorial Disbursement Unit Manager, Gordon Grant. Both were dedicated, long-serving employees of PCSD.

OFFICE OF SEXUAL OFFENDER REGISTRY

The Department is also tasked with enforcing the Sex Offender Registration and Notification Act (“SORNA”) and the Virgin Islands Sex Offender Registration and Community Protection Act. The Office of the Sex Offender Registry continues to register, track, and monitor sex offenders who reside, are employed, or attend

school in the Territory. It often conducts random compliance checks on registered sex offenders in the Territory.

Today, the SORNA unit is staffed with a Sexual Offender Registry Coordinator, a Territorial Sexual Offender Registry Program Manager, and one investigator. The SORNA unit routinely works with the U.S. Marshals Service (“USMS”), the VIPD, Homeland Security, and the Virgin Islands Port Authority in carrying out its legislative mandate. Currently, there are 123 sex offenders registered in the territory—66 in the St. Croix District and 57 in the St. Thomas District. This fiscal year, SORNA staff, with the help of the community at large, have arrested four individuals for failing to appear and register as sex offenders.

SPECIAL INVESTIGATIONS DIVISION

The Special Investigations Division (SID) is a specialized law enforcement unit within the OAG. Currently, the SID is staffed with eight employees—four assigned to each district. Thus far, in this fiscal year SID has opened 36 new cases—spread equally across the districts. Collectively, these agents and staff have served 231 subpoenas, conducted one extradition, and been assigned to several witness protection cases from the beginning of this fiscal year alone. The SID is struggling with some staff shortages as it has been very challenging recruiting experienced special agents and investigators. The addition of three special agents to the St.

Thomas/St. John District and two for the St. Croix District would strengthen investigations as well as resolve them in a timely fashion.

OTHER UPDATES

I am pleased to report that on January 28th Governor Bryan signed off on the Collective Bargaining Agreement between the Government of the Virgin Islands Department of Justice and the United Industrial Service, Transportation, Professional and Government Workers of North America of the Seafarers International Union. On behalf of the assistant attorneys general, I want to say thank you to Governor Bryan. We are actively working on implementing the new salary scale which is effective from October 1, 2022. The competitive salaries offered should help our recruitment and retention efforts.

Additionally, the Department has executed a new lease with the Government Employees Retirement System (“GERS”) for its use in the GERS complex. The last lease between the Department and the GERS was in 1998. For this fiscal year and the next, the rent will increase from \$444,756.00 to \$565,850.00, an increase of \$121,094.00. Renovations to the executive offices of the OAG in the GERS complex were completed last year. During the first quarter of this calendar year, renovations will continue initially with the Civil and Criminal Divisions and then the other areas. The contractor who will be performing the renovations to the general

litigation section has already been selected. Renovations will include painting the walls, replacing the office doors, and removing the old, soiled rug and replacing it with tiles. Funding for the renovations will come from the \$500,000 appropriated under Act No. 8473 by the 34th Legislature, plus 66,493.00 received from FEMA for damages our offices suffered during Hurricanes Irma and Maria. I want to thank the members of the 34th Legislature for making the funding available so that we can improve the physical work environment for our employees.

Finally, a contractor for our new case management system will be selected shortly. This system should reduce the number of physical files, facilitate easy access to electronically stored information, enhance our data collection and reporting capabilities, reduce the cost of printing and, overall, improve efficiency and productivity.

CONCLUSION

The aforementioned information is a snapshot of the status of the OAG and the work that it routinely performs. Our Department remains committed to the People of the Virgin Islands and the performance of the duties and responsibilities statutorily entrusted to us. This concludes my formal remarks and I, along with my staff, remain available for any question the members of the committee may have.