

TESTIMONY OF ATTORNEY GENERAL NOMINEE
GORDON C. RHEA
BEFORE THE COMMITTEE ON RULES AND JUDICIARY
35th LEGISLATURE OF THE VIRGIN ISLANDS
September 12, 2024

Good morning, Honorable Diane Capehart, Chairperson of the Committee on Rules and Judiciary, other Senators of the 35th Legislature, and members of the viewing and listening public. My name is Gordon Campbell Rhea, and I am before you today as the Nominee for Attorney General of the United States Virgin Islands. I would like to thank the Honorable Albert Bryan, Jr., Governor of the Virgin Islands, and the Honorable Tregenza Roach, Esq., Lieutenant Governor of the Virgin Islands, for nominating me to this position. Having been a Federal Prosecutor in both Washington DC and the Virgin Islands, and having also worked as a defense attorney, a civil attorney, and an appellate attorney, and having been a member of the Virgin Islands Bar for more than forty years, I consider serving as the Virgin Islands' Attorney General an honor and an opportunity to give back to a community that has meant so much to me, to my wife, and to my family.

I would like to begin by telling you a little about myself, focusing first on the experiences and training that have prepared me for this position, and then on the history of my relationship with the Virgin Islands.

I grew up in Oak Ridge, Tennessee, a town that the Federal Government built in the early 1940's to work in tandem with Los Alamos to produce the first atomic bomb and end World War II. After graduating from high school, I attended Indiana University, received a Bachelor's Degree with honors in history, then entered graduate school at Harvard University as a Woodrow Wilson Fellow and earned a Master's degree in history there. Afterwards, I joined the Peace Corps' Africa program and worked as a teacher and community development worker in remote villages in the Ethiopian highlands and in the Ogaden desert, near Somalia. It was a life-changing experience.

Returning to the United States in early 1970, I worked for a year and a half as a carpenter in California, then attended Stanford University Law School, where I received my law degree in 1974. My areas of concentration were criminal law and environmental law, and I helped draft Stanford's Environmental Law Handbook. My first job after law school was with one of the top criminal law firms in Los Angeles, where I specialized in complex criminal cases and appeals to the 9th Circuit Federal Court of Appeals.

Another life-changing event occurred in 1975 when I was invited to apply for the position of Special Assistant to the Chief Counsel of Senator Frank Church's Select Committee on Intelligence Activities in Washington, D.C. This Senate

Committee investigated alleged abuses by Federal intelligence agencies, and as the Chief Counsel's Special Assistant, I participated in uncovering and documenting several of those abuses. My work included acquiring documents, deposing witnesses, writing reports, drafting legislation, and preparing Senators Frank Church and Walter Mondale to testify in public hearings. I was the chief investigator and drafter of the Committee's report on the CIA's attempts to assassinate Fidel Castro, Patrice Lumumba, and other foreign leaders, and of its report on the FBI's disgraceful attempts to discredit Martin Luther King and undermine the Civil Rights movement.

When the Senate Select Committee finished its work in late 1976, I was appointed an Assistant United States Attorney in Washington. Over the next five years, I prosecuted hundreds of criminal cases in the Superior Court for the District of Columbia and in the United States District Court for the District of Columbia, ranging from misdemeanors to first degree murders to complex white-collar prosecutions. After serving in the misdemeanor trial division, the grand jury division, the felony trial division, and the appellate division, I was appointed Deputy Director of Superior Court Operations, overseeing all felony prosecutions in Washington DC. I was then elevated to Executive Assistant United States Attorney, where I assisted the U.S. Attorney in managing the nation's largest Federal prosecutor's office of more than 160 civil, criminal, and appellate lawyers. My

responsibilities included coordinating with local and Federal law enforcement agencies; reviewing and authorizing major local and Federal prosecutions; overseeing the office's criminal, civil, and appellate divisions; interviewing and hiring new prosecutors; coordinating with media; and trying high-profile cases in the nation's capital. I have several fascinating stories about those days that I could share with you, time permitting.

In 1981, the administration changed in Washington, and the U.S. Attorney and his executive team – including me – was asked to step down so the new President could appoint his own people. I did so and was invited to serve as a Special Assistant United States Attorney in the Virgin Islands. I accepted immediately.

At that time, my roots in the Virgin Islands reached back more than a decade. I had spent the summer of 1968 at the Peace Corps' training camp for Ethiopia volunteers at Becks Grove on St. Croix. While in law school, I returned to Saint Croix for the summer of 1973 and worked as a law clerk with the firm of Isherwood and Colianni. Several members of that firm – including Thomas Alkon and Jeffrey Barnard – became lifelong friends, and I had the opportunity to meet and work with many of the bar's prominent figures, including Albert Sheen and Winston Hodge. I remained in touch with them during my Washington years and visited the islands

frequently, so when I was offered the opportunity to move to the Virgin Islands full-time in 1981 as an Assistant United States Attorney, it was an offer I could not refuse.

As an AUSA in the Virgin Islands, I prosecuted major felonies on St. Croix and St. Thomas. Late in 1982, Attorney Thomas Alkon and I formed the Virgin Islands firm of Alkon and Rhea, specializing in personal injury litigation, including toxic tort cases, product liability cases, and complex white collar criminal cases. We brought numerous major suits against the Hess Oil refinery and the Martin Marietta bauxite refinery for injuring workers by exposing them to toxic materials such as asbestos, heavy-metal catalysts, silica, solvents, and isocyanate paints. We also prosecuted ground-breaking product liability cases against automobile manufacturers for injuries caused by vehicle instability, firewall failures, and occupant protection failures; handled litigation involving airplane crashes, turbulence encounters, and a wide range of catastrophic worker related injuries; and served as co-counsel in litigation against Exxon, ESSO, and Texaco for contaminating the sole-source Tutu aquifer on St. Thomas with petroleum and chlorinated hydrocarbons.

Over the ensuing decades, I have averaged three or four trials a year in the Virgin Islands. Among my major cases in recent years was my representation of the chief financial officer of a prominent EDC company – KAPOK – in a 2 ½ month-

long jury trial that resulted in his acquittal and in many respects helped save the EDC program. I won the largest civil jury verdict ever rendered in the Virgin Islands in a landmark case against R.J. Reynolds tobacco company involving cancer deaths caused by its cigarettes. I also recently represented hospital CEO Amos Carty in his trial and subsequent appeal, in which the Virgin Islands Supreme Court ruled that he had acted in good faith and vacated his conviction. In sum, I have extensive experience in civil, criminal, and appellate litigation, much of it in the Virgin Islands. I am humbled by the Virgin Islands Bar Association's decision last year to grant me its highest honor, the Winston Hodge Award.

My wife Catherine also has close ties to the Virgin Islands. She moved to Saint Croix in 1978, taught at Lew Muckle elementary school and at Country Day School, and later worked on the island with Prudential Bache and Merrill Lynch. We were married on St. Croix in 1986, and our first son Campbell was born a few months before Hurricane Hugo, which destroyed our home on Little Princess Hill with us and our infant son in it. I am happy to report that we all survived, and that Campbell is now an attorney and a member of the Virgin Islands Bar, although he is based out of Milwaukee. We also have a second son, Carter, who spent much of his childhood here and is receiving his PhD this year in astrophysics.

I have several hobbies. I am an avid long-distance trail runner and have run numerous marathons during the past several decades. I also enjoy hiking and take advantage of the many hiking opportunities in the Virgin Islands. I also write history and have published eight books, several of which won national awards and were featured as main selections of the History Book Club.

Now that I have shared some of my background, let me turn to the position to which I have been nominated. Pursuant to Virgin Islands law, the Attorney General heads the Department of Justice and has a series of responsibilities, including prosecuting violations of the territory's criminal statutes; representing the executive branch and its boards, agencies, and commissions in civil actions where the Government is a party or has an interest; investigating violations of law for which the executive branch may invoke penalties, fines, or forfeiture; representing the executive branch before administrative tribunals; furnishing legal advice to the Governor and all executive departments; preparing drafts of legislation and contracts on request; rendering opinions regarding the legality of legislation, contracts, and other matters of import; and administering and enforcing laws pertaining to ethics and conflicts of interest. The Attorney General is also required to implement social action programs for the prevention of crime and the protection of witnesses and victims of crimes.

To accomplish these goals, the Attorney General oversees the Justice Department of some 155 employees. I will be assisted by two Deputy Attorney Generals – one helps manage the St. Croix District, and the other the St. Thomas, St. John District. The Department is further divided into several divisions, each with Assistant Attorney Generals and support staff. The divisions are as follows: the Criminal Division prosecutes violations of the Virgin Islands Criminal Code in the Virgin Islands Superior Courts; 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 and handles appeals from judgments in which the Government is a party; the Paternity and Child Support Division provides aid to vulnerable children and facilitates children’s visitation with non-custodial parents; the Office of the Medical Examiner secures the bodies of the deceased 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 (SORNA), we register and track sexual offenders and maintain a public registry website identifying offenders; the Division of Gaming Enforcement investigates casino employees and persons seeking casino licenses and tests electronic gaming machines; the Special Investigations Division investigates fraud, white collar crimes, and public

corruption, makes arrests, 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 providers and companies responsible for improper or fraudulent Medicaid billing schemes; and our Victim Advocates Program helps ensure the safety and well-being of victims. Finally, we have an IT Unit and a Budget and Accounting Unit that perform functions critical for the management and running of the entire Department.

I assumed the position of Acting Attorney General on May 20 of this year. I spent my first week meeting with the deputies, division chiefs, assistant attorney generals, investigators, and staff on both St. Croix and St. Thomas, inviting them to tell me what was working well, to identify any problem areas, and to give me their best assessment of how to improve or correct those problem areas. Their response has been very positive and helpful.

The major big-picture issue that I have begun working to change is the lack of coordination among the departments and agencies responsible for law enforcement and justice. Even though the Virgin Islands Department of Justice, 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 seldom cooperate or work together to achieve those goals. One reason I hope to receive your confirmation as Attorney General is to help bring about a coordinated effort by all these entities to work as a team to achieve their common purpose. Here are the steps that I have taken over the past two months to advance that goal.

First, I met with Virgin Islands Police Commissioner Ray Martinez and when he stepped down continued talks with Assistant Commissioner Mario Brooks. We have identified several areas where closer cooperation between the police department and our Criminal Division can reap large rewards. For example, we are working on systems that will enable the police to give us soon after an arrest the information critical to making charging decisions, such as police reports, witness and victim contact information, body cams, and forensic evidence. This will enable us to better evaluate cases at an early juncture and will also allow us to give defense attorneys the discovery necessary to promptly negotiate pleas, diversion programs, or other dispositions, thereby helping reduce the court's overwhelming case load while at the same time advancing our law enforcement goals. We also plan for each prosecutor assigned to a case to visit the crime scene with the officer who made the arrest to better understand the location and events and to determine what photographs or other demonstrative material might be helpful in explaining the case to a jury. To that end, we have already held meetings in St. Croix and in St. Thomas

involving the prosecutors and relevant police officers in both departments in which they were able to sit together for several hours, get to know each other, and discuss how best to achieve this much-needed cooperation.

I have also had several conversations with U.S. Attorney Delia Smith and her criminal chief Michael Conley. They, too, were surprised and delighted that I was looking to cooperate with them to advance our common law enforcement objectives, as relations between the Virgin Islands and Federal prosecuting arms have generally been strained. We discussed how we could work together in complex cases with a Federal connection, such as the embezzlement of Federal funds or violations of both Federal and territorial laws. The advantages are tremendous. 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. To that end, the U. S. Attorney also agreed that some of our Assistant Attorney Generals could be sworn in as Special Assistant United States Attorneys (SAUSA's) and cooperate in trying some of these cases in Federal court. This arrangement will not only afford our prosecutors invaluable experience but will also achieve favorable and less-costly dispositions of some of our major cases.

I also met with Chief Territorial Public Defender Julia Todman to discuss ways in which we could reach early dispositions in criminal cases, including early discovery and various incentives for non-violent crimes or crimes by youthful defenders, including pretrial diversion programs and probation. I have spoken with several Superior Court judges about expanding the use of diversion programs and probation for non-violent or youthful offenders, and they welcome the idea. Young offenders will have an opportunity to avoid the lifetime stigma of a criminal conviction and to improve their lives through counseling, drug and alcohol treatment, or whatever programs will help them become law-abiding and productive members of the community. Importantly, such dispositions help unclog judicial calendars, give prosecutors more time to focus on violent and repeat criminal offenders, and provide young and non-violent offenders an opportunity and the tools to clean up their lives.

Turning our focus from the broad law-enforcement picture to particular needs of the Department, three items stand out. First is the urgent need to fill numerous vacant positions. I addressed that problem in detail in my testimony to the Budget Committee. For example, our Solicitor General represents all Government departments in their appeals, prepares legal opinions, reviews all government contracts for legal sufficiency, advises all boards and commissions, and represents the government in bond matters. Several years ago, the Solicitor General had a staff

of twelve attorneys to help with this 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.

A second critical need of the Department is an IT case management system that will 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. My predecessors had initiated negotiations with a national

company, Journal Technologies, Inc., that can design and install such a case management system, but the project has stalled. I have put it back on track and 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.

Finally, I plan to step up the training programs for our attorneys. The National Association of Attorney Generals – called NAAG for short – supplies a series of excellent training programs for prosecutors and their staff, both remotely and in person. I am in discussions with NAAG to determine the best programs for our attorneys and staff and to establish dates for the training sessions.

Before ending my testimony, there is one matter I would like to address. I am often asked about my involvement in the recent cases involving Jeffrey Epstein. Let me begin by emphasizing that I have never met, communicated with, or represented Mr. Epstein and am as shocked and disgusted by his conduct as I believe we all are. Some four years ago, after Epstein's death, the Virgin Islands Government brought suit against Epstein's estate and those associated with it. I was contacted by a New York law firm that requested me to serve as local counsel for Richard Kahn, a CPA living in New Jersey who had worked as Epstein's accountant and was now one of the two co-executors of Epstein's estate. I spoke with Mr. Kahn, and he agreed with me that the estate's assets should be used primarily to help right Epstein's egregious

wrongs. To that end, we requested the court to appoint a special master to interview Epstein's female victims in private, determine the amount that each should receive, relay that amount to the estate, and the estate would pay it without question. Altogether, the estate paid the women victimized by Epstein approximately one hundred and fifty-five million dollars (\$155,000,000), averaging over \$900,000 per victim. In addition, the estate entered into settlements with the Virgin Islands government and other entities that Epstein had cheated out of taxes. The amount owed the Virgin Islands in unpaid taxes was approximately \$80 million. After negotiations, the estate ultimately paid the Virgin Islands \$116.5 million. To avoid any hint of impropriety or potential conflict of interest, I have recused myself from any involvement in any Epstein-related matters that might arise while I am Attorney General.

Significantly, the Justice Department dismissed the charges against Mr. Kahn. As for myself, I felt that I did a good job securing justice for my client, for the women victimized by Epstein, and for the Virgin Islands. As Attorney General, I swear to you that I will represent my clients, the people of the Virgin Islands, with that same zeal, dedication, and commitment to justice.

Thank you for the opportunity to testify before your Committee. I would be delighted to answer any of your questions.