

**PRESENTATION OF ATTORNEY GENERAL
GORDON C. RHEA
DEPARTMENT OF JUSTICE'S TESTIMONY
THIRTY-SIXTH LEGISLATURE OF THE VIRGIN ISLANDS
IN RE: BILL NO. 36-0144
COMMITTEE ON HOMELAND SECURITY,
JUSTICE AND PUBLIC SAFETY
SEPTEMBER 4, 2025**

Good morning, Chairman Clifford Joseph, Committee on Homeland Security, Justice and Public Safety members, other Senators, Legislative staff, and the listening and viewing audiences. I am Attorney General Gordon Rhea. Joining me from St. Thomas is H. Timothy Perry, Chief of the Virgin Islands Department of Justice's Criminal Division. It is an honor and privilege to appear before you this morning.

The Department of Justice appreciates the opportunity to comment on Bill No. 36-0144. The Department of Justice has completed a preliminary review of Bill No. 36-0144 and offers the following comments.

The stated purpose of Bill No. 36-0144 is to amend title 14 of the Virgin islands Code, chapter 113, to define and prohibit assault rifles, ban suppressors and silencers, and requiring safety training for licensed rifles and shotgun holders, prohibiting large-capacity magazines, and preventing the illegal sale of firearms, firearm accessories and ammunition.

Pursuant to title 3 of the Virgin Islands Code, section 114, it is the duty of the Attorney General to prosecute, in the Name of the People of the Virgin Islands, offenses against the laws of the Virgin Islands. Today, within the Territory, approximately one fifth, or one out of every five arrests in the Virgin Islands, involves guns. Tragically, firearms are used during crimes of violence to intimidate, to harm, to kill.

Firearms are not manufactured in the Virgin Islands, meaning each and every gun in the Territory entered either legally through the licensing process, which is overseen by the Commissioner of Police and the Firearms Bureau, or illegally smuggled into the Territory.

Respectfully, we join with Virgin Islands Police Department in supporting this bill. We commend the Legislature for continuing to provide law enforcement with the tools necessary to identify and criminalize the most dangerous manifestation of illegal weapons in the Territory.

Historically, there are certain rights that are sacred in the United States, and enshrined in the Constitution and the Bill of Rights. For example, the First Amendment, the right to free speech; the Second Amendment, the right to bear arms; the Fourth Amendment, the right to be free from illegal search and seizure. However, consistent with public safety, there are certain limitations on each of these rights.

For example, the First Amendment guarantees the right to free speech. Americans can believe what they wish and say what they want; however, there are limits to this freedom to protect the community. While a person has the right to free speech, it is illegal to use that speech to start a riot, to disturb the peace, or to harass another.

Similarly, the Second Amendment speaks to the right to bear arms. This is not, however, an unfettered right. An individual has the right to bear arms for self-defense; at the same time, a community has legal authority under the Constitution to protect itself. We see this intersection occur often when laws passed by other states to protect the community are challenged by individuals in Court, and ultimately upheld or struck down.

Recently, in N.Y. State Rifle & Pistol Ass’n v. Bruen the U.S. Supreme Court struck down New York state’s concealed carry law.¹ The Supreme Court held that the “proper cause” provision was unconstitutional because it interfered with the Second Amendment right to bear arms. And yet, two years later in 2024, in United States v. Rahimi, the same U.S. Supreme Court upheld the state’s right to prohibit the possession of firearms by individuals subject to a domestic violence restraining order.²

¹ N.Y. State Rifle & Pistol Ass’n v. Bruen, 597 U.S. 1 (2022)

² United States v. Rahimi, 602 U.S. 680 (2024)

In short, Supreme Court precedent establishes that a state cannot, through discretionary factors, limit one’s right to bear arms. It does not mean that any citizen is free to possess any kind of firearm, anywhere, for any purpose.

These are the words of the Justices of the Supreme Court: In Bruen, Justice Kavanaugh emphasized that “the Court’s decision does *not* prohibit states from imposing licensing requirements for carrying a handgun for self-defense.” Bruen at 79. Justice Alito, joining the majority in Bruen, noted that the holding in Bruen does not invalidate laws regulating who may lawfully possess a firearm; “we [have not] disturbed anything that we held in Heller or McDonald about restrictions that may be imposed on the possession or carrying of guns.” Bruen at 72. In McDonald,³ the Supreme Court held that the right to keep and bear arms is “not ‘a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose’... We made it clear in Heller,⁴ that our holding did not cast doubt on such longstanding regulatory measures as ‘prohibitions on the possession of firearms by felons and the mentally ill,’ ‘laws forbidding the carrying of firearms in sensitive places such as schools and government buildings...’” Id. at 81.

The regulation of firearms in America can be controversial. The role of the Department of Justice is to enforce the law, as passed by this body.

³ McDonald v. Chicago, 561 U.S. 742 (2010)

⁴ District of Columbia v. Heller, 554 U.S. 570, 626 (2008)

The Department of Justice is not equipped to speak to the hyper-technical elements of this bill, including what is or is not a “military grade” accessory, what is or is not a “tactical pistol,” or what constitutes a “rifle-caliber cartridge.” This will also be the case if asked to prosecute these matters, as we rely on our colleagues and firearms experts at VIPD to identify and define these elements.

I do, however, wish to spend the balance of this testimony in strong support of the provision of this bill that should not be controversial: the addition of section 2259 to title 14 of the Virgin Islands Code, covering the prohibition on large capacity magazines.

This provision of Bill No. 36-0144 has a long history. The proposed law is based on what we were seeing on the street. Increasingly, at crime scenes on St. Thomas and St. Croix, VIPD is collecting 20, and sometimes 30 or more, shell casings. When Shot Spotter records the discharge of 20 or 30 rounds in rapid fire, it suggests all the rounds were shot from a single magazine. These magazines are in our community now.

I have attached Exhibit 1 to this testimony. It is a photograph of the multiple high-capacity magazines seized in one recent case on St. Thomas. In this photograph, and under current Virgin Islands law, the unlicensed weapon is illegal, the ammunition is illegal, but the high-capacity magazines are not.

Increasingly, when making arrests for unlicensed firearms, officers see illegal guns equipped with extended, or drum magazines carrying 50 to 100 rounds. To put this into perspective, our police officers carry a department issued Glock with a 15-round magazine and two backup magazines on their belt, for a maximum of 46 rounds. A defendant armed with such an extended magazine could outgun a Virgin Islands police officer more than 2:1. If a defendant's gun is equipped with a conversion chip — which this body made illegal under 14 VIC §2253(e) — one trigger pull can throw 50 to 100 rounds, without a reload.

In October 2024, Chief Perry and I were invited to a Criminal Justice Roundtable on St. Croix, hosted by the Hon. Senator Gittens. The issue of large capacity magazines came up, and together we prepared a draft bill on this single issue. Much of the language in Hon. Senator Gittens' bill is reproduced in today's proposal for 14 V.I.C. §2259.

Respectfully, the Department of Justice joins the Virgin Islands Police Department in supporting this bill. Similar laws have been passed in at least 14 states and in the District of Columbia. Limiting the size of magazines held by the

public is the law of the land in New Jersey⁵, Maryland⁶, Delaware, New York⁷, Vermont, Illinois, Colorado, Massachusetts, California, Rhode Island, Washington and the island state, Hawaii.⁸ In passing a prohibition on large capacity magazines, the Territory will not be an outlier, it will be in good company as nearly one third of U.S. states enacted such a ban.

The prohibition on large capacity magazines is a common-sense law for a number of reasons. First, large capacity magazines have been used in virtually every mass shooting event in the United States. For example, in 2012 at Sandy Hook Elementary School in Newton, Connecticut, the shooter shot and killed 26 people, including 20 children between age 6 and 7 and 6 school teachers. The shooter carried multiple 30 round extended magazines.⁹ The tragedy of incidents like this are why large capacity magazines are regulated by one third of U.S. states.

⁵ New Jersey, Stat. § 2C:39-3(j) prohibits a person from knowingly having in his possession a large capacity ammunition magazine, which is defined as a box, drum, tube or other container which is capable of holding more than 10 rounds of ammunition.

⁶ Maryland Criminal Law Code Ann. § 4-305(b) states that a person may not manufacture, sell, offer for sale, purchase, receive, or transfer a detachable magazine that has a capacity of more than 10 rounds of ammunition for a firearm.

⁷ New York Criminal Code § 265.02 makes illegal the possession of a large capacity ammunition feeding device, as defined as a magazine, belt, drum, feed strip, or similar device, that (a) has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition.

⁸ Hawaii Revised Statutes Annotated § 134-8(c) makes criminal the manufacture, possession, sale, barter, trade, gift, transfer, or acquisition of detachable ammunition magazines with a capacity in excess of ten rounds which are designed for or capable of use with a pistol.

⁹ In 2018, in Parkland, Florida, the shooter at Douglas High School shot and killed 11 people; the shooter carried 30 and 40 round magazines. In 2022, in Uvalde, Texas, an 18-year-old with a legally purchased firearm shot 38 people, 21 fatally, at Robb Elementary School; the shooter had multiple 30 round extended magazines.

Second, 14 V.I.C. §2259, as proposed, does not limit or infringe upon, in any way, the right to license and legally possess a firearm in the Territory. 14 V.I.C. §2259 does not speak to the types of weapons allowed or disallowed, it does not seek to criminalize a particular make and model of gun or caliber of ammunition. Rather, this portion of the bill limits the number of bullets a person may carry in each magazine before reloading. Note please as well, this bill does not limit the number of 10-round magazines an individual may possess.

Third, the preference for a 10-round magazine is already the practice here in the Virgin Islands. The Territory's firearm licensing statute, T. 23, Chapter 5 of Virgin Islands Code, vests the Commissioner with the authority to promulgate rules and regulations for issuing firearms. Upon information and belief, at present, the Firearms Bureau only issues licensing coupons for firearms with magazines of 10 rounds or less.

Fourth and finally, laws prohibiting the carrying of large capacity magazines have already been tested and upheld in court. 14 V.I.C. §2259 is patterned on similar laws, as passed in other states, which have withstood judicial scrutiny. Most recently, in the case of Ocean State Tactical, LLC v. Rhode Island, 95 F. 4th 38 (2024), the plaintiffs challenged Rhode Island's ban on high capacity magazines.

They argued that the 10-round limit was impermissible under the Second Amendment. The First Circuit heard that argument and rejected it.

The Court noted that the Rhode Island ban on large capacity magazines was made in rational response to “proliferating mass shootings across the country,” and that the ban on high capacity magazines promotes public safety because “in a mass shooting incident every pause to reject a spent magazine and load a new one represents the opportunity to preserve a specific life, or more than one.” The Court went on to observe that “use of more than ten bullets in self-defense is ‘rare’” and “most homeowners only use two to three rounds of ammunition in self-defense.” Notably, after the First Circuit upheld Rhode Island’s ban on high-capacity magazines, the plaintiffs appealed the matter to the U.S. Supreme Court, who rejected the *writ of certiorari*. In effect, the Supreme Court, in light of Bruen, had the opportunity to strike down a ban on high capacity magazines, and declined to do so.

In conclusion, this Legislature has shown itself, repeatedly, to be committed to increasing public safety in the Virgin Islands. This package of gun laws does exactly that, provides tools for law enforcement to help keep the community safe. We join with our partners at the Virgin Islands Police Department in support of this

bill, and in particular, the provision to add 14 V.I.C. §2259 to the Virgin Islands Code, the common sense prohibition on large capacity magazines.

I thank the Committee for allowing the Department of Justice to testify on Bill No. 36-0144. This concludes my formal remarks. Chief Perry and I welcome any questions you may have.

EXHIBIT 1

