

**TESTIMONY OF
NELSON L. BOWRY
TO THE
COMMITTEE ON GOVERNMENT SERVICES, CONSUMER AND VETERANS' AFFAIRS**

**31ST LEGISLATURE OF THE VIRGIN ISLANDS
ON BILL NO. 31-0014
APRIL 15, 2015**

GOOD DAY HONORABLE JUSTIN HARRIGAN, SR. CHAIRMAN OF THE COMMITTEE ON GOVERNMENT SERVICES, CONSUMER AND VETERANS' AFFAIRS OF THE 31ST LEGISLATURE OF THE VIRGIN ISLANDS, OTHER MEMBERS OF THE COMMITTEE, OTHER SENATORS WHO ARE PRESENT, MEMBERS OF THE MEDIA AND THE LISTENING AND VIEWING AUDIENCE. I AM NELSON L. BOWRY, DIRECTOR DESIGNEE OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB) AND I AM HERE TO PROVIDE TESTIMONY ON BILL NO. 31-0014, "AN ACT AMENDING TITLE 33 VIRGIN ISLANDS CODE, ADDING CHAPTER 119 TO RE-ESTABLISH THE OFFICE OF THE VIRGIN ISLANDS INSPECTOR GENERAL (VI-OIG) AS A SEMI-AUTONOMOUS AGENCY OF THE GOVERNMENT."

TO THE EXTENT THAT BILL NO. 31-0014 SEEKS TO STRENGTHEN THE INDEPENDENCE OF VI-OIG GENERALLY AND THE INSPECTOR GENERAL SPECIFICALLY, OMB HAS NO ARGUMENT WITH THE INTENT. HOWEVER, WE DO HAVE STRONG CONCERNS WITH RESPECT TO THE IMPLICATIONS FOR GOVERNANCE AND FISCAL CONTROLS.

THIS LEGISLATION SEEMS TO SET UP A SUPER AGENCY THAT IS BEHOLDEN TO NO ONE. THIS AGENCY WILL HAVE POLICE POWERS AND EVEN SEMI-PROSECUTORIAL POWERS WITH A BUDGET THAT CANNOT BE REDUCED. THIS IS NOT A SEMI-AUTONOMOUS AGENCY; THIS IS IN FACT ALMOST A FOURTH BRANCH OF GOVERNMENT. NO OTHER SEMI-AUTONOMOUS AGENCY HAS THE UNFETTERED INDEPENDENCE THAT THIS BILL ASSIGNS TO THE INSPECTOR GENERAL. ALL THE OTHER AGENCIES AT LEAST REPORT TO A BOARD. FURTHER, TO THE EXTENT THAT

THOSE OTHER AGENCIES RECEIVE APPROPRIATIONS OF GOVERNMENT FUNDS, THESE APPROPRIATIONS ARE SET BY AN EXPLICIT ACT OF THE LEGISLATURE (NOT AUTOMATICALLY BY A FORMULA BASED ON OTHER AGENCIES NEEDS) AND ARE SUBJECT TO THE FISCAL DISCIPLINE REQUIRED BY CURRENT CIRCUMSTANCES.

THE BILL PROVIDES THAT THE OFFICE OF THE INSPECTOR GENERAL'S (OIG) ANNUAL BUDGET BE ESTABLISHED BY A FORMULA OF ONE-HALF OF ONE PERCENT (1/2%) OF THE OVERALL BUDGET OF THE GOVERNMENT, BUT NOT LESS THAN THREE MILLION DOLLARS (\$3.0 MILLION). FURTHER, IT REQUIRES THAT THE ENTIRE AMOUNT MUST BE ALLOTTED. THERE ARE SEVERAL ISSUES WITH THIS FORMULA.

FIRST, IT ESTABLISHES A BUDGET THAT IS NOT BASED ON THE NEEDS OF THE AGENCY OR THE AVAILABLE FINANCIAL RESOURCES OF THE GOVERNMENT OF THE VIRGIN ISLANDS (GVI). THIS VIOLATES THE BASIC PRINCIPLES OF BUDGETING. THE FORMULA SETS A MINIMUM BUDGET OF \$3.0 MILLION BUT NO MAXIMUM. FOR EXAMPLE, ACCORDING TO THIS FORMULA THE OIG'S FISCAL YEAR 2015 APPROPRIATION WOULD HAVE BEEN \$3.67 MILLION OR \$4.45 MILLION, DEPENDING ON WHETHER THE FORMULA WAS APPLIED TO GENERAL FUND ONLY OR TO ALL PRIMARY GOVERNMENT FUNDS.¹ ACCORDINGLY, OIG'S APPROPRIATION WOULD HAVE BEEN EITHER 84% OR 123% HIGHER THAN ITS \$2.0 MILLION APPROPRIATION, WITHOUT REGARDS TO ITS NEEDS OR THE ACKNOWLEDGED DIRE FISCAL CIRCUMSTANCES.

SECOND, IT EXEMPTS THE OIG, AN EXECUTIVE BRANCH AGENCY, FROM THE EXPENDITURE CONTROLS THAT THE STATUTES HAVE ASSIGNED TO THE GOVERNOR, VIA THE OMB DIRECTOR, AS PROVIDED IN THE VIRGIN ISLANDS CODE (VIC). THIS AUTHORIZATION WAS GIVEN TO THE OMB DIRECTOR IN RECOGNITION OF THE FACT

¹ This needs to be clarified by the Legislature.

THAT ACTUAL FINANCIAL RESOURCES ARE FREQUENTLY LESS THAN APPROPRIATED AMOUNTS. WITHOUT THE ABILITY TO REDUCE EXPENDITURE VIA THE ALLOTMENT PROCESS, THE GVI WILL NEVER BE ABLE TO AVOID DEFICIT SPENDING. THE STATUTES, WITH GOOD REASON, EXEMPTS THE LEGISLATURE AND COURTS, AS SEPARATE AND CO-EQUAL BRANCHES OF GOVERNMENT, FROM THIS AUTHORIZATION GIVEN TO OMB. NO OTHER ENTITY OF THE EXECUTIVE BRANCH HAS BEEN PROVIDED SUCH EXEMPTION.

INDEED NOT EVEN THE JUDICIAL BRANCH HAS A GUARANTEED MINIMUM BUDGET. IN FACT, THE LEGISLATURE ITSELF APPEARS TO BE SURRENDERING ITS RIGHT TO LIMIT THE OIG'S BUDGET TO ITS NEEDS (UNLESS IT IS GOING TO CHANGE THE FORMULA ANNUALLY). AS A FISCAL OFFICER OF THE GVI, I ACKNOWLEDGE AND SUPPORT THE NEED FOR INDEPENDENCE OF THE VI-OIG AND I CONCEDE THAT INDEPENDENCE CAN BE CONSTRAINED BY THE AVAILABILITY OF FUNDING. HOWEVER, OUR SYSTEM OF GOVERNANCE IS BASED ON THE CONCEPT OF CHECKS AND BALANCES TO ENSURE THAT NO ENTITY IS TOTALLY INDEPENDENT.

I BELIEVE THE VI-OIG SHOULD BE REQUIRED TO JUSTIFY ITS BUDGET, IF NOT TO THE GOVERNOR THEN TO THE LEGISLATURE, BASED ON ITS NEEDS, WHICH MUST BE EVALUATED AND PRIORITIZED IN THE CONTEXT OF THE FISCAL CIRCUMSTANCES OF THE FUNDING SOURCE. OMB THEREFORE DOES NOT SUPPORT A FORMULA-BASED BUDGET.

END OF STATEMENT