

THIRTY-SIXTH LEGISLATURE OF THE U.S.
VIRGIN ISLANDS
COMMITTEE ON HOMELAND SECURITY,
JUSTICE AND PUBLIC SAFETY
Chairman: The Honorable Clifford A. Joseph Sr.
Virgin Islands Police Department
St. Croix, USVI
April 3rd, 2025

BILL NO. 36-0024 (SPONSORED BY: SENATOR RAY FONSECA)

Mr. Chairman, distinguished members of the Senate, thank you for the opportunity to testify today in this matter. I am Deborah Hodge, Chief of Police for the St Thomas/St. John district. On behalf of Police Commissioner Mario Brooks, I submit this testimony in support of Bill No. 36-0024, which seeks to amend Title 14 of the Virgin Islands Code, Chapter 85, by adding Section 1710, to declare that a person in police custody is incapable of consenting to sexual relations. Herein I will request that the term Police Officer be replaced with Law Enforcement Officer to reflect the importance of this legislation to cover all sworn personnel within this jurisdiction.

This legislative amendment is not only necessary for closing a critical legal gap but also aligns the Virgin Islands with existing federal law and best practices adopted by a majority of U.S. states. Please note that while VIPD officers have associated

policies as well as issued bodycams that are mandated to be in record mode when chasing, apprehending, and transporting persons of interest, suspects or any other persons within the community aligned with criminal activity, not all law enforcement personnel who serve within the territory have the same policies.

Legal Precedent and Federal Alignment

The United States Congress has already recognized the inherent coercion in custodial settings by enacting 18 U.S.C. § 2243(c), which makes it a federal crime punishable by up to 15 years in prison for any federal law enforcement officer to “knowingly engage in a sexual act with an individual who is under arrest, under supervision, in detention, or in Federal custody.” Notably, under this law, consent is not a valid defense.

This federal statute reflects the understanding that individuals in custody cannot freely consent due to the power imbalance between them and law enforcement officers. However, because 18 U.S.C. § 2243(c) applies only to federal law enforcement officers, state and territorial agencies must enact their own laws to ensure that all officers whether local, territorial, or municipal are held to the same standard. By passing Bill No. 36-0024, the Virgin Islands Legislature will ensure that territorial law enforcement officers are subject to the same strict accountability as their federal counterparts.

The Need for Stronger Legal Protections

Cases of sexual misconduct, while not representative of the majority of law enforcement personnel who serve honorably undermine public trust when they occur.

Data from the Bureau of Justice Statistics (BJS) and investigative reports from the U.S. Department of Justice (DOJ) reveal troubling patterns:

A 2016 BJS report found that more than half of substantiated cases of law enforcement sexual misconduct involved victims who were in custody or otherwise under law enforcement authority.

A 2018 nationwide study found that at least 35 states have passed laws explicitly prohibiting law enforcement officers from engaging in sexual acts with individuals in custody, regardless of claimed consent.

Despite these alarming statistics, some jurisdictions without clear statutes have seen officers successfully argue that their encounters were “consensual.” This legal loophole must be closed to ensure that no person in custody is ever placed in a position of coercion or exploitation.

Strengthening Public Trust and Accountability

Trust between law enforcement and the community is the foundation of effective policing. When instances of sexual misconduct occur, they not only harm the victims but also tarnish the reputation of all law enforcement officers and erode public confidence in law enforcement agencies.

By passing Bill No. 36-0024, the Virgin Islands will:

- Align itself with federal law (18 U.S.C. § 2243(c)) and ensure local law enforcement officers are held to the same standards as federal officers.
- Eliminate any ambiguity in the law by stating that individuals in custody cannot consent to sexual relations with law enforcement officers.

- Protect the integrity of the Virgin Islands Police Department (VIPD) and our local law enforcement colleagues by reinforcing our commitment to ethical policing and public trust.

Conclusion

We urge the committee to fully support and advance Bill No. 36-0024. This legislation is not about restricting the rights of officers it is about ensuring that the power entrusted to law enforcement is never used to exploit vulnerable individuals. It upholds the principles of justice, accountability, and public trust, all of which are essential to maintaining a fair and effective criminal justice system in the Virgin Islands.

Thank you for your time and consideration. We will remain on standby to welcome any questions from the committee.