



United States Virgin Islands

Bureau of Corrections

COMMITTEE TESTIMONY

COMMITTEE ON HOMELAND SECURITY, JUSTICE, AND PUBLIC SAFETY
36th Legislature of the Virgin Islands

Presented By :
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**DIRECTOR WYNNIE TESTAMARK
VIRGIN ISLANDS BUREAU OF CORRECTIONS
TESTIMONY BEFORE THE COMMITTEE ON HOMELAND SECURITY,
JUSTICE, AND PUBLIC SAFETY**

BILL NO. 36-0231

An Act Amending Title 5 Virgin Islands Code, Subtitle 3, Part III, Chapter 401, by Adding Section 4507a to Establish Procedures for Inmate Transfers Outside the Virgin Islands

Good morning, Chairman Clifford A. Joseph, Sr., Vice-Chairman Ray Fonseca, esteemed Members of the Committee on Homeland Security, Justice, and Public Safety, Senator Gittens, Senator Lewis, Senator Bolques, Senator DeGraff, and Senator Johnson, distinguished Members of the 36th Legislature of the Virgin Islands, legislative staff, and all those joining us in person and virtually via YouTube and Facebook.

My name is Wynn Timermark, and I have the honor and privilege of serving as the Director of the Virgin Islands Bureau of Corrections. Today, I appear before you with deep respect and a renewed sense of purpose to provide testimony for the Virgin Islands Bureau of Corrections.

Thank you for the opportunity to testify regarding Bill No. 36-0231. The Bureau of Corrections recognizes and appreciates the Legislature's commitment to rehabilitation, family unity, accountability, and humane correctional practices. Maintaining family connections and providing meaningful rehabilitative opportunities are important objectives that can improve institutional adjustment and successful re-entry. The Bureau shares these goals and remains committed to working collaboratively with the Legislature to promote transparency and rehabilitation.

The proposed legislation as drafted presents significant operational, legal, constitutional, and public safety concerns. It would substantially limit the Bureau's ability to manage inmate populations, maintain institutional security, respond to emergencies, protect staff and inmates, comply with federal law, and exercise the professional judgment required of modern correctional systems.

For these reasons, the Bureau respectfully opposes Bill No. 36-0231 unless it is substantially amended.

I. The Bill Restricts Essential Correctional Authority

Correctional institutions are dynamic, high-security environments that require constant assessment and rapid decision-making. Unlike most government agencies, correctional administrators must be able to respond immediately to changing security conditions, including violence, gang activity, retaliatory threats, staffing shortages, medical and mental health emergencies, infrastructure failures, escape intelligence, witness protection concerns, protective custody needs, and institutional disturbances.

The authority to transfer inmates is one of the Bureau's most important management tools. Transfers are frequently necessary to prevent violence, separate incompatible inmates, protect

vulnerable individuals, relieve overcrowding, respond to emergencies, or maintain institutional order.

Bill No. 36-0231 would significantly restrict this authority by requiring committee review, expanded procedural requirements, legal notifications, gubernatorial approval, mandatory timelines, and additional reporting obligations before many transfer decisions can occur. These requirements are incompatible with the realities of correctional operations and risk delaying actions that must often be taken immediately to preserve the safety and security of inmates, staff, and the institution.

II. The Bill Undermines Professional Correctional Judgment

Inmate classification and transfer decisions require specialized expertise and are based on continuous assessment of numerous security factors, including custody level, disciplinary history, gang affiliation, escape risk, mental health, medical needs, housing compatibility, witness protection concerns, institutional intelligence, staffing conditions, and facility capacity.

National correctional standards consistently recognize that these decisions should remain within the discretion of trained correctional professionals who possess direct operational responsibility and access to confidential intelligence.

The bill as proposed introduces external participants into this process and requires broader dissemination of information related to transfer decisions. Many transfer determinations are based on confidential intelligence obtained through internal investigations, law enforcement coordination, informants, intercepted communications, and security threat assessments.

Disclosure of sensitive information outside established correctional intelligence channels may have serious consequences, including increased risks of retaliation against informants, witness intimidation, compromised investigations, coordinated gang activity, and threats to institutional security and staff. These concerns underscore the importance of maintaining appropriate confidentiality safeguards to protect individuals, preserve the integrity of intelligence operations, and ensure the continued safety and security of the institution. Operational decisions involving inmate safety often depend upon maintaining strict confidentiality and the ability to act without delay.

III. The Bill Conflicts with National Correctional Standards

National correctional organizations, including the American Correctional Association, the National Institute of Corrections, the Correctional Leaders Association formerly known as Association of State Correctional Administrators, which I am an active member, and the United States Department of Justice, recognize several core principles of correctional management.

First, correctional leaders must retain broad discretion over inmate classification, housing assignments, transfers, emergency response, and institutional security because they possess the expertise and real-time operational knowledge necessary to maintain safe institutions.

Second, classification systems must remain flexible. Housing and transfer decisions frequently change in response to evolving intelligence, disciplinary incidents, gang activity, mental health crises, staffing shortages, population levels, and emergency conditions. Rigid statutory procedures interfere with this flexibility.

Finally, institutional security depends upon confidential intelligence gathering and limited dissemination of security-sensitive information. The bill does not adequately account for these operational realities.

IV. Gubernatorial Approval Is Operationally Impractical

One of the bill's most concerning provisions requires gubernatorial approval for inmate transfers.

Correctional transfer decisions often involve rapidly developing security situations requiring immediate action, including credible assault threats, gang retaliation, inmate extortion, witness protection, staffing emergencies, coordinated disturbances, and institutional security breaches.

These operational decisions have historically been entrusted to correctional professionals because they require specialized expertise and immediate access to institutional intelligence. Requiring executive approval introduces unnecessary delays, administrative burdens, uncertainty regarding decision-making authority, and potential liability.

No major correctional system in the United States requires gubernatorial approval for routine inmate transfer decisions because such a requirement is inconsistent with accepted correctional management practices.

V. The Bill May Jeopardize Federal and Constitutional Compliance

The Virgin Islands correctional system has historically operated under federal oversight concerning overcrowding, staffing, inmate protection, medical and mental health care, and unconstitutional conditions of confinement.

The Bureau must retain flexibility to manage inmate populations in order to comply with constitutional standards and federal obligations. Off-island transfers have historically been an essential tool to reduce overcrowding, separate violent inmates, provide specialized housing and treatment, address security concerns, and maintain safe conditions.

Restricting transfer authority may impair compliance with constitutional requirements, federal monitoring obligations, staffing requirements, inmate protection standards, and the Prison Rape Elimination Act (PREA). It may also increase the Territory's exposure to litigation involving overcrowding, deliberate indifference, failure to protect, unsafe conditions, and other constitutional claims.

VI. The Bill Limits Emergency Response

Although the legislation contains an emergency provision, it remains inconsistent with the realities of correctional operations.

Correctional emergencies including riots, PREA incidents, coordinated gang assaults, hostage situations, targeted violence, infrastructure failures, emergency lockdowns, and staffing crises can escalate within minutes. Institutional leadership must be able to relocate inmates immediately without waiting for procedural review or statutory notice requirements.

Effective emergency management depends upon rapid decision-making, operational flexibility, and professional discretion.

VII. The Bill Creates Significant Administrative Burdens

The legislation establishes extensive procedural requirements, including committee review, legal notifications, gubernatorial approval, documentation, reporting obligations, compliance tracking, and policy revisions.

These requirements would consume limited personnel and financial resources that should instead support institutional security, inmate supervision, rehabilitation, medical care, and staffing.

The bill also increases the likelihood of litigation concerning transfer decisions, procedural compliance, confidentiality, and classification disputes, further diverting resources from the Bureau's core public safety mission.

VIII. The Bill May Undermine Staff Safety and Rehabilitation

Correctional officers work in one of the most dangerous environments. Their safety depends upon the Bureau's ability to respond quickly to emerging threats, separate hostile inmates, address gang activity, stabilize housing units, and maintain institutional control.

Restricting transfer authority increases the risk of staff assaults, inmate violence, institutional instability, staff burnout, recruitment challenges, and declining morale. When correctional personnel are required to manage heightened security risks without the ability to make timely housing or classification adjustments, the resulting operational pressures can contribute to chronic stress, emotional fatigue, and reduced job satisfaction among staff. Over time, these conditions may accelerate burnout, increase absenteeism and turnover, negatively impact staff retention, and make it more difficult to recruit and maintain qualified correctional professionals. Declining morale can also affect teamwork, communication, and overall institutional effectiveness, ultimately creating additional challenges to maintaining a safe and secure correctional environment.

Moreover, while the proposed bill seeks to promote rehabilitation, institutional instability undermines that objective. Safe, secure, and well-managed facilities are essential for educational programming, mental health treatment, family engagement, and successful rehabilitation. When facilities become overcrowded or unsafe, rehabilitative programming inevitably suffers. The Bureau of Corrections remains committed to supporting rehabilitation efforts through initiatives that promote positive engagement, personal development, and community connections, including family fun days, structured activities, rehabilitative programs, and challenges designed to encourage accountability, teamwork, and personal growth. Maintaining a safe and stable institutional environment is critical to ensuring these programs remain effective and accessible to individuals in custody as they prepare for successful reintegration into the community.

Conclusion

The Bureau fully supports the Legislature's commitment to rehabilitation, transparency, and family engagement. However, Bill No. 36-0231, as drafted, would significantly impair the Bureau's ability to manage correctional institutions safely and effectively.

The legislation restricts professional correctional discretion, conflicts with nationally accepted correctional standards, impairs emergency response, threatens institutional security, risks disclosure of confidential intelligence, creates PREA and constitutional compliance concerns, interferes with federal obligations, and increases risks to both staff and inmates.

Any reform of inmate transfer procedures should preserve the Bureau's authority to make timely classification and transfer decisions based on evolving security conditions, confidential intelligence, staffing realities, and institutional needs. Operational flexibility, emergency responsiveness, intelligence confidentiality, and professional correctional judgment are indispensable to maintaining safe and constitutional correctional facilities.

For these reasons, the Bureau respectfully urges that Bill No. 36-0231 not be adopted in its current form and recommends that the legislation be substantially amended to preserve the operational authority necessary for effective correctional management. Maintaining this authority is essential to protecting the safety and security of individuals in custody, correctional staff, and the general public. Any legislative changes affecting correctional operations must balance rehabilitative goals with the practical realities of maintaining secure facilities, preventing violence, managing risk, and ensuring that the Bureau can respond swiftly and effectively to circumstances that may threaten institutional or public safety.

Thank you for the opportunity to present this testimony.