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Bill Permitting VI Police Officers to Stop and Frisk Virgin Islanders Held in Committee

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A stop-and-frisk occurring in New York By. MARK LENNIHAN/ASSOCIATED PRESS

The territory's law enforcement community cheered the intent of lawmakers who proposed a specific "stop-and-frisk" policy for peace officers, but questioned whether the bill was necessary, which led to the measure being held in committee.

The stop-and-frisk measure would codify existing law regarding police stops, the legal concepts of reasonable suspicion and probable cause, and Constitutional protections against illegal searches and detention, said Quincy McRae, the chief of Criminal Division for the V.I. Department of Justice in the St. Thomas-St. John District.

“Nothing new or unique would be added by adopting Bill No. 33- 0075,” Mr. McRae told members of the Senate Committee on Homeland Security, Justice, Public Safety and Veterans Affairs. The committee, chaired by Sen. Steven D. Payne Sr., took testimony on the Bill No. 33-0075 during a hearing the Capitol Building in St. Thomas on Monday.

As written, the measure “treads precariously” on the Fourth Amendment rights guaranteed under the U.S. Constitution, David A. Cannonier, a Deputy Chief of Operations for the V.I. Police Department- St. John District, wrote in prepared testimony. The written statement from Mr. Cannonier was read into the record by Calvin G. Walwyn, the V.I.P.D.’s deputy commissioner of police operations.

Under Bill No. 33-0075, proposed by Sen. Stedmann Hodge, peace officers may temporarily detain, pat-down and ask the identity of a person encountered under “under circumstances which indicate that the person has committed, is committing, or is about to commit a violation of criminal laws. The stop-and-frisk is limited to the place where the stop was made. It does not extend to the person’s home or vehicle.

Mr. Hodge said constitutional stop and frisk policies are vital in keeping the streets of the territory safe. In defense of 33-0075, he said the legislation Constitutional concerns are covered. “This legislation sets out the parameters that before stopping a suspect a police officer must have reasonable suspicion that a crime has been, is about to be committed or is being committed.”

“This legislation grew out of the practical problems police officers of the Virgin Islands face,” Mr. Hodge said. “If police officers cannot take action until they have probable cause, crime control will continue to suffer.”

Personal experience is guiding Sen. Marvin Blyden’s position. “I definitely do not support this piece of legislation,” he said.

Mr. Blyden lived and worked in California for some years in the past. “I had a very good job. And everyday I would be stopped. I was a law-abiding citizen. I did what I was supposed to do, like everyone else yet still I was targeted?”

“I do commend my colleague for the intent. But what kind of message are we trying to send,” Mr. Blyden said.

Sen. Dwayne DeGraff, a former V.I. police officer, said he understands the intent of the bill because of his past experience. “I know exactly what mere suspicion and these things can entail -- the violation of the Fourth Amendment,” he said.

Under the Fourth Amendment, probable cause is generally necessary to predicate a police search or seizure. Probable cause is defined “in terms of facts and circumstances sufficient to warrant a prudent man in believing that the [suspect] had committed or was committing an offense.”

However, there are certain exceptions to the requirement of probable cause. These exceptions are based on the limited intrusion the individual searched or detained must endure compared with a substantial law enforcement interest.

Mr. DeGraff also said it is unclear to him whether the legislation applied to V.I. police or all “peace officer,” a much broader category that includes employees of other executive branches.