

The Virgin Islands Consortium

Measure to Criminalize Circulation of Accident and Crime Scene Photos by First Responders Clears First Committee Hurdle

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The scene of a shooting incident in 2015 near the St. Croix Central High School. By. V.I. CONSORTIUM

The issue of first responders potentially invading the privacy of accident or crime victims was addressed during Tuesday's meeting of the Senate Committee on Homeland Security, Justice and Public Safety, after lawmakers approved draft legislation on the matter.

Sponsored by Senator Marvin Blyden, Bill 35-0127 would amend Title 14 VIC Chapter 89 to punish first responders who publish photos of victims at accident and crime scenes in the territory.

“It is bad enough to be a victim of a violent crime or an accident or to be a loved one of someone who has suffered such a tragic fate,” said Mr. Blyden. “But to have bloody and gruesome pictures and images...spread all over social media is another thing particularly when the photos are spread by the people who are responsible for securing and protecting victims.”

He argued that “the sense of violation that the daily experiences can only be fully understood by those who have lived through the experience.” Mr. Blyden disclosed that the measure came as a result of a promise made to the friend of an accident victim whose photos had ended up being splashed across social media. Like lawmakers in states such as California and New Jersey where similar measures have been adopted, “we looked for ways to halt or at least limit these awful occurrences,” he said.

Testifiers included Police Commissioner Ray Martinez, who stated that the V.I. Police Department “cautiously supports this measure, but will yield to the Attorney General...for further guidance and testimony.” Outside of the draft legislation, however, Mr. Martinez noted that it is already a violation of VIPD policy to obtain and disclose crime and accident scene imagery or victim information without a legitimate reason. “Policy violations can lead to discipline up to and including termination,” he noted.

Mr. Martinez called the bill before lawmakers “light-handed,” saying that the prescribed punishment was not enough of a deterrent. “The penalty should not solely be a misdemeanor punishable by a fine. Based on the egregiousness of the act, the ability to charge the action as a felony should be available.”

For her part, Attorney General Ariel Smith was supportive of the proposed legislation, providing a list of recommended changes which she said would “strengthen and clarify” the bill. Ms. Smith suggested broadening the definition of “first responder” to ensure that all government employees “on a crime scene, acting as part of a criminal investigation or emergency response” were covered under the definition. She also said that it would be “appropriate to provide guidance to the relevant agencies on how to best promulgate internal professional standards” and training, since the measure would create criminal liability for offenders. She also queried the use of the term “liquidated damages” in the draft, saying that it more commonly applied to contract cases.

VI Fire and Emergency Services Asst. Director Antonio Stevens said that his agency was in complete support of the measure, and believes that it creates “effective deterrents” as written.

Lawmakers expressed three key concerns about the bill as written: ensuring that culprits are correctly identified, calibrating the punishment to fit the seriousness of the offense, and providing a deterrent to people who may not be a government worker or first responder.

To a question posed by Senator Alma Francis Heyliger, Mr. Martinez noted that identifying the person who takes and disseminates images of crime or accident victims “is

not an exact science.” However, he assured that the VIPD has “resources that we utilize that we can find out who was there and who sent those images.”

However, Mr. Martinez also defended his officers, arguing that “99% of the photographs that are out there were not taken by first responders. They were taken by the social media mafia as I refer to them.” That assessment concerned committee chair Senator Kenneth Gittens. “I just don’t want our first responders to feel like they’re the only culprits,” the senator said, expressing hope that companion legislation “pertaining to those who are non-governmental employees” would soon come to the floor of the Senate.

Meanwhile, Senator Javan James agreed with Mr. Martinez that the proposed \$1000 fine was not enough. He noted that similar penalties exist for littering on the highway or parking in a spot reserved for disabled people. “The fine needs to be stiff, we need to send a strong message,” he said, advocating for the \$1000 figure to be a starting point, not a cap on a judge’s discretion. Senator Franklin Johnson agreed. “If you don’t hit people in their pocket sometimes, as hard as you can, they will continue,” he argued.

Sen. Blyden was amenable to the amendments recommended by the attorney general. “We did put an amendment for everything you recommended because we do agree with you and it makes sense,” he said, while encouraging other lawmakers to submit amendments of their own, especially as it pertains to the stipulated penalty. He also noted that the prescribed \$1000 fine was not the only liability offenders may face, as the door would then be open for civil litigation which could lead to further fines and penalties.

Once debate had concluded, committee members voted favorably on the measure, sending it onto the next stage of the legislative process – consideration by the Committee on Rules & Judiciary.