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Bryan Administration Says Law Not Clear Enough on Blyden Covid Scandal; Health Commissioner Says Investigation Opened

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Senator Marvin Blyden By. V.I. Legislature

The Bryan administration, through the V.I. Dept. of Health's Covid-19 Task Force, has been shutting down establishments, suspending their licenses for violating its Covid-19 protocols, and even arresting individuals who use fake Covid-19 tests to enter the USVI. "If we shut you down for noncompliance, it's a 30-day wait window until after Labor Day to get a hearing," Mr. Bryan said on August 9 during a Covid-19 press briefing, referring to businesses that were flouting the administration's Covid-19 protocols.

In April, the V.I. Dept. of Justice [issued a release stating](#) that anyone who willfully violates emergency executive orders and directives during the Covid-19 state of emergency can face criminal consequences.

“These executive orders carry the weight of law and must be obeyed,” stated V.I. Attorney General Denise George.

According to the V.I. D.O.J., the commissioner of Health, as the designated Incident Commander, has the power and authority to enforce health regulations providing for quarantine, isolation and other appropriate measures. The Justice Department added that persons known to have the virus who willfully violate the directives as determined by the Health commissioner can be criminally charged under Title 14 of the V.I. Code, according to the attorney general.

But on Monday during the administration's Covid-19 press briefing, in responding to questions regarding [Senator Marvin Blyden's flouting of the V.I. Dept. of Health's Covid-19 protocols](#) by attending an event on Saturday evening after he had twice tested positive for Covid-19 on Wednesday, Mr. Motta said V.I. law was not clear enough to take any meaningful action against the senator. He added that there was nothing that could be done until senators work on legislation with more "teeth."

The V.I. Dept. of Health had advised Mr. Blyden to quarantine for 10 days. The senator said he could not believe he was Covid positive and therefore performed his own tests at home. The senator has failed to provide proof.

"Based on the governor's executive order which still exists under the emergency declaration which we are currently under, there is a penalty under Title 14 or Title 16 of Virgin Islands Code, there is a financial penalty for individuals who do not comply," Mr. Motta said. He said there weren't any recently passed laws that regulate Covid-19 specifically. "What the law that exists under the governor's executive order speaks to is failure to comply with the mandates of an executive order. We don't currently have anything on the books legally that speaks to an individual who is violating a public health order — let's say for example an order by the Dept. of Health to quarantine for ten days, and if an individual doesn't do that there isn't any law on the books right now that currently regulates that."

In response to Mr. Motta's comment, the Consortium pointed to Title 14, Chapter 43, § 886 of V.I. Code, which states, "*Whoever willfully exposes himself or another afflicted with any contagious or infectious disease in any public place or thoroughfare, except in his necessary removal in a manner the least dangerous to the public health, shall be fined not more than \$200 or imprisoned not more than 1 year, or both.*"

Mr. Motta responded by stating that the law wasn't clear enough.

According to the World Health Organization, the Coronavirus disease (COVID-19) is an infectious disease caused by the SARS-CoV-2 virus.

In relation to the Blyden matter, the senator told the Consortium he was tested twice on Wednesday for Covid-19, and both results returned positive. Those tests were performed at the V.I. Legislature and at the V.I. Dept. of Health. D.O.H. told the senator to quarantine for 10 days, according to Mr. Blyden. The senator said he could not believe that he was Covid positive and therefore proceeded to perform a test at his home, which he said returned negative. Mr. Blyden said it was after the home test result came back negative that he decided to go to the entertainment function Saturday night. He did not attend the Senate session on Friday because of

the Covid positive result. Additionally, the senator said he would have provided the results of the home test, but as of Monday afternoon he had not done so. Mr. Blyden did send a test result to the Consortium Sunday evening, but it was for a test performed on July 16, 2021.

Said Mr. Motta, "Like I mentioned, we have what was put forward in the executive order and you just read something from the Virgin Islands Code that speaks to an infectious disease. But like I mentioned... what you mentioned there is imprisonment but it doesn't clearly define what that is and what can be prosecuted by a court of law in terms of... it doesn't provide any further guidelines other than what you've read. And so the law is vague and it needs to be clearly defined and that's the point we're making."

Asked what part of the law was vague, Mr. Motta responded, "The imprisonment part, the penalties. You have a penalty defined, but it's saying an infectious disease. And again, I want to bring back to... this is something that we recently petitioned the Legislature to make this law... to give the executive branch more teeth to be able to hold these individuals accountable in a court of law who violate this specific provision."

V.I. Dept. of Health Commissioner Justa Encarnacion in response to a Consortium reiteration of the same question relative to what could be considered enough evidence to investigate the Blyden matter, said D.O.H. has launched an investigation. "The investigation is actually ongoing and because of that I am unable to comment," she said. Asked how long the investigation was expected to take, the commissioner said, "I won't be able to say at this point in time."