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Almost Half of BOC's 2022 Budget Unused Because of Failure to Secure New Staff With 98 Positions Unfilled; Consent Decree Drags On

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The John A. Bell Adult Correctional Facility, formerly known as the Golden Grove Correctional Facility on St. Croix. **By. ERNICE GILBERT/ V.I. CONSORTIUM**

The V.I. Bureau of Corrections has presented the Legislature with a reduced budget for fiscal year 2023, taking a cut of $4.5 million even as it struggles with severe staff shortage and high overtime costs.

The bureau's proposed 2023 budget is $37,171,087, an 8.9 percent reduction over last year's original budget of $41,719,068. That figure does not include $1,591,597 proposed for Federal Funds allotment.

BOC Director Wynnie Testamark said the entity will work "within the confines" of what they have and plans to supplement any additional funding needs with program grants.

According to the director, BOC has successfully secured grant funds to offset prison expenses such as offender programming, medical services, and infrastructure, remarking that, "Every dollar in grant funds the bureau unlocks is one dollar less than it spends from the General Fund."

The bureau is convinced that it would be able to work with the reduced amount, though Senator Donna Frett-Gregory believes that it is not possible if the organization intends to beef up its work force in the upcoming year.

"I'm going to ask that you all go back and look at your numbers because I don't believe that you are able to do this if you are going to try to fill your positions in earnest," she said.

With fiscal year 2022 nearing an end, the bureau has only expended 61.2 percent of its current budget which was funded mainly to pay fringe benefits and to fill vacant positions, a majority of which were not filled and will carry over into next year's budget cycle. While the bureau expected to have a compliment of 287 staff members in 2022, 98 of those positions currently remain vacant. So far for 2022, it has only hired 14 new employees and plans to hire 23 more before the fiscal year ends.

The staff shortage has led to overtime payments of $4.8 million for 2022, approximately $1 million more than the previous year. These payments came as a result of 12-hour shifts that were implemented during the Covid-19 pandemic.

However, Peter Abrahams, program and grants manager said the bureau expects to have that money fully reimbursed by the Federal Emergency Management Agency which was allocated federal funds to assist with Covid expenses.

According to Mr. Abrahams, the bureau requested the reimbursement for both 2021 and 2022 in April and is now waiting on the outcome. "We're asking for everything, whether they'll give it to us that's a different thing," he claimed.

Daily medical expenses to care for all 409 inmates and detainees in the bureau's custody are also high, particularly for one patient who is being housed at the Correct Care Recovery Solutions, a mental health forensic care hospital on the mainland. Rates to house prisoners being held outside the territory range from $102 to $274 dollars per day in Virginia; $71 to $75 per day at Core Civic; and Correct Care Recovery Solutions $570 per day for that one patient.

In addition to those expenses, the bureau said it had already spent $1.2 million in medical treatment, with Ms. Testamark explaining that this was due to a high number of elderly patients in custody and whose treatments are more expensive. "We have a lot of geriatrics, the aging population and their healthcare is much more expensive," she said.

According to her testimony, the BOC also spent $770,343.30 year-to-date for inpatient and outpatient services and $190,470.88 for medical supplies.

As of August 1, 2022, the Bureau housed 246 inmates locally – 106 at the Alexander Farraley Criminal Justice Complex (CJC) and 140 at the John. A. Bell Adult Correctional Facility, as well as an additional 163 inmates off-island at facilities in Florida, Virginia, and Mississippi.

A majority of these prisoners are detainees who are on remand for an average of two years, except for the case of one man who has been on remand for eight years without trial.

Amidst these concerns, the bureau is locked in a decades-long court-ordered consent decree and a settlement which mandates it to prove that it is not housing detainees in inhumane conditions or violating their human rights. The bureau is a party to two separate consent decrees: a consent decree covering conditions of confinement at John A. Bell Adult Correctional Facility on St. Croix, and a consent decree covering the Alexander A. Farrelly Criminal Justice Complex on St. Thomas.

Its 2023 budget includes $700,000 for fees to monitors and experts which the bureau is legally mandated to pay so long as the consent decrees remain in effect. To remedy this issue, the V.I. Department of Justice and BOC have jointly retained the services of Maynard Cooper Gale — a law firm with specialized legal expertise in complex prison litigation cases — with a hope that they will be able to end the decrees within the next two years.

“I think the administrative correctional medical and mental health staff in St. Thomas and St. Croix are going to be the keys to getting the territory out of the settlement agreement in St. Croix and the consent decree in St. Thomas,” Attorney Matt Reeves said, adding that it would take a lot of work to remedy.

These consent decrees were imposed in 1986 at John A. Bell on St. Croix and in 1994 at the CJC on St. Thomas and both address conditions of confinement including infrastructure, security, medical, mental, and dental health services as well as other mandates, programs, and services.

A recent detailed report, which was submitted by court-appointed independent monitor Kenneth Ray, said BOC was woefully failing on a number of consent decree compliance matters, leading to a score downgrade.

Elsewhere, Ms. Testamark said BOC has been actively engaged in talks to find ways to decrease the prison population. However, proposed solutions would exclude a majority of the people on remand who may not qualify to participate in pre-trial divisionary programs. For example, she said ankle bracelets would be for none violent offenders but a majority of the detainees are in prison for murder and rape charges and would not be eligible.

“We’re currently working on an MOU to procure some ankle bracelets. The challenge is out of our population only 25 would qualify. Our population, it’s a high percentage of it that’s charged with murder and rape which are violent charges, so they wouldn’t qualify for some of those pre-trial diversionary programs that we’re trying to enlist in the territory,” the director explained.

Senator Janelle Sarauw called the monies being spent on legal representation of those decrees “absurd” and registered her annoyance with the process.

Ms. Sarauw noted that the litigation would not end as long a there is a high number of detainees being housed under poor conditions at these aging facilities. She uttered that “no matter how much money you give Mr. Reeves, you will never leave the consent decree because this is like a domino theory”.

Senator Frett-Gregory also opened up about her concern with detainees remaining on remand for such long periods, commenting that, “It just makes me feel really, really bad that we’re okay with this and the people that serve on our judicial branch and in the Attorney General’s Office, they’re Virgin Islanders."