

December 5, 2025

Senator Milton E. Potter
President, 36th Legislature of the U.S. Virgin Islands
Capitol Building
St. Thomas, VI 00804

Senator Marise C. James
36th Legislature of the U.S. Virgin Islands
3022 Estate Golden Rock
Christiansted, St. Croix, VI 00820

Senator Marvin A Blyden
36th Legislature of the U.S. Virgin Islands
Capitol Building
St. Thomas, VI 00804

Dear Senators:

The undersigned press freedom and transparency organizations write to urge you to introduce legislation to comprehensively reform the U.S. Virgin Islands' public records and open meetings laws. We have reviewed the detailed [recommendations](#) submitted by independent investigative journalist Shirley L. Smith and strongly support her call for modernizing transparency statutes to meet contemporary standards and protect the public's right to know.

The Critical Need for Reform

As national organizations dedicated to defending press freedom and government accountability, we are concerned about the barriers to access faced by the press and public in the U.S. Virgin Islands. Ms. Smith's experience—waiting years for basic public records related to environmental, health, and safety issues—represents a fundamental failure of transparency.

The current situation in the USVI mirrors troubling patterns we have observed nationwide when transparency laws are outdated, not enforced, or both: government officials operate without meaningful oversight, important stories go unreported, and citizens lack the information necessary to hold their government accountable. [Reports](#) of retaliatory removals of journalists from media lists and denials of access to press conferences by authorities in the USVI further compound these problems and raise serious First Amendment concerns.

With news outlets facing unprecedented financial challenges and online misinformation running rampant, strong transparency laws that enable fact-based local journalism are more essential than ever to democracy and good governance, in the USVI and nationwide. The urgency is only heightened by the inability to rely on the federal government under the current administration to perform meaningful oversight when it comes to key issues for residents of the USVI, like protecting the environment, reducing pollution, and protecting residents' health and safety.

To be sure, this is not only about the press, because the press serves as a proxy for the public. This is about the people. Research shows that transparency laws lead to tangible benefits for the government and its citizenry, including [lower taxes](#), [less corruption](#), cleaner [drinking water](#), and [safer restaurants](#).

Key Changes Needed to Modernize the Law

Ms. Smith's recommendations are grounded in best practices from states across the country. Without diminishing the importance of any of Ms. Smith's other suggestions, we particularly endorse the following high priority reforms:

Establish Clear Response Deadlines

The USVI [Sunshine Act](#), U.S. Virgin Islands Code, Title 3, § 881, currently contains no time limit for agencies to respond to records requests—an extraordinary gap that enables indefinite delays. A total of 41 states impose specific deadlines for initial responses, with more than half of those requiring action within five days or less. We support a deadline of three business days to respond to requests, which is what some of the most transparent states require, and a deadline of seven business days to produce documents.

The requester can give the responding party an additional seven business days to produce documents, or an additional 14 business days for extensive requests, if the responding party can provide legitimate reasons in writing why the additional time is necessary. Absent written agreement from the requester, failure to respond and produce records within that timeframe should constitute a constructive denial, giving requesters immediate grounds for appeal.

Modernize the Definition of Public Records

The 1921 definition of public records predates email, text messages, body camera footage, and digital communications that now constitute the bulk of government business. The law must explicitly include electronic records, meta-data, correspondence, meeting recordings, crime data, police records, government-sponsored social media, and other modern information formats so that agencies cannot exploit ambiguities to avoid or delay compliance by putting the ball in requesters' courts to argue for transparency. Ultimately, any recordings by government officials pertaining to government business, whether on official or personal devices, should be subject to the public records law, in consideration of legal exemptions.

Reduce Excessive Fees and Establish Fee Waivers

The current fee structure—charging by word count rather than page, requiring payment for staff supervision time—creates insurmountable financial barriers to access, [discouraging average people](#) from interacting with their government. The current law also lacks fee waiver provisions, which have been adopted in jurisdictions nationwide for journalists and others whose requests serve the public interest. We strongly support eliminating fees for search and redaction time – charging only for the actual cost of materials to produce copies (e.g., paper), and providing electronic records at no charge. We also recommend establishing automatic fee waivers for

non-commercial requests. The government should not profit from providing public information, nor should access depend on a requester's ability to pay.

Impose Meaningful Penalties for Noncompliance

Research has shown that public record laws are virtually meaningless unless they include [mandatory attorney fee-shifting](#) and substantive financial penalties. The current \$100 maximum fine provides no deterrent for violations and pales in comparison to the legal fees requesters must pay to enforce their rights. We support substantially increased penalties. For example, Washington state's penalty of \$100 per record per day that the information was illegally withheld has proven to be an effective deterrent. We're open to discussing alternative penalty systems, but given the incentives that exist for officials (particularly those with something to hide) to eschew transparency, meaningful financial consequences are essential to achieving compliance. There should also be personal liability for bad faith violations. Further, if a requester sues an agency when illegally denied records, and prevails, then the agency should be required to pay the plaintiff's reasonable attorney fees, as is required in about a third of the states.

Create an Independent Administrative Appeals Process

Requiring citizens to file lawsuits to obtain public records creates an insurmountable barrier for most requesters and overwhelms the court system. We strongly support establishing an independent administrative body, similar to Connecticut's Freedom of Information Commission or Ohio's "open records court," to provide accessible, low-cost resolution of transparency disputes. It should not be mandatory, however – requesters should still retain the option to take their case to court if they prefer.

[Studies indicate](#) that such independent agencies can remove significant barriers for average people and save everyone – including government agencies – time and expense in litigation. They can also be tasked, as in Connecticut, with addressing vexatious requests (to be narrowly defined to discourage abuses) that are made in bad faith and unduly burden agencies, as well as educating government employees and the public. Even better, while saving millions of dollars in avoided litigation, they cost just [pennies per capita to implement](#).

Ensure Open Meetings and Prohibit Retaliation Against Journalists

We agree with Ms. Smith that, while agencies can and should provide virtual access to meetings, it should not be at the expense of in-person access, where people can observe and interact with their representatives firsthand regardless of whether they have a reliable internet connection. That virtual and in-person access must be available to all, including members of the press and public who disagree with, criticize or investigate their government. The removal of journalists from media lists, denial of press credentials, and selective exclusion from news conferences or public meetings in retaliation for critical coverage violates the First Amendment. The law should explicitly prohibit such discrimination and impose substantial penalties on officials who engage in these practices.

The Path Forward

We understand that the Legislature is currently engaged in updating the Virgin Islands Code, making this an opportune moment for comprehensive transparency reform. We respectfully urge you to work directly with Ms. Smith and other local journalists who have documented transparency failures under the current Sunshine Law and understand what reforms are needed, and that you promptly introduce legislation to effectuate those reforms. We stand ready to assist however we can.

Sincerely,

American Governance Institute
E-PluribusUnum.org
First Amendment Foundation
Freedom of the Press Foundation
Joseph L. Brechner Freedom of Information Project
Los Angeles Press Club
National Press Photographers Association
PEN America
Radio Television Digital News Association
Reporters Without Borders (RSF)
Society of Professional Journalists
The Media and Democracy Project