



THE UNITED STATES VIRGIN ISLANDS
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

March 7, 2016

David Hall
President
University of the Virgin Islands
#2 John Brewers Bay
St. Thomas, V.I. 00802

Re: **The Application of the Open Records Act to UVI**

Dear President Hall:

We have reviewed your letter dated February 3, 2016, regarding whether the Virgin Islands Open Records Act applies to the University of the Virgin Islands ("UVI") even though it is an independent instrumentality. As you are well aware, title 17 of the Virgin Islands Code section 451 establishes the University of the Virgin Islands. That section states:

There is hereby established in the Island of St. Thomas, Virgin Islands, as an *instrumentality of the Government of the United States Virgin Islands* an institution to be known as "The University of the Virgin Islands" the cardinal objectives of which shall be the stimulation and utilization of the intellectual resources of the people of the Virgin Islands and the development of a center of higher learning whereby and wherefrom the benefits of culture and education may be extended throughout the Virgin Islands, the Caribbean and other areas. No person shall because of race, creed, color or national origin be deprived of the privileges of this institution. (emphasis added).

V.I. CODE ANN. tit.17 § 451.

As an "instrumentality of the Government of the Virgin Islands," UVI falls within the definition of a public record under V.I. CODE ANN. tit. 3 § 881. Section 881 defines a public record and "includes all records and *documents of or belonging to this Territory* or any branch of government in such Territory or any department, board, council or committee of any branch of government." (emphasis added). V.I. CODE ANN. tit. 3 § 881. Thus, the Open Records Act applies to the University.¹ However, this application is not without its exceptions.

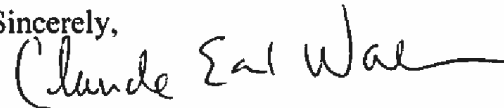
¹ The *Daily News v. Government of the Virgin Islands*, 28 V.I. 36 (Terr. Ct. 1992) referenced in your letter does not specifically state that instrumentalities of the Government are exempted from the Open Records Act. The case was filed against the Government of the Virgin Islands, various Commissioners, a union and the Legislature. The case does not address the issue raised in your letter. See generally, *Sprauve v. West Indian Co.*, 799 F.3d 226 (3d Cir. 2015).

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Specifically, under V.I. CODE ANN. tit. 3 § 881(g) only those documents that are not privileged or exempted must be produced. Under the Open Records Act, news outlets have the right to review, inspect and copy non-privileged documents, such as documents pertaining to UVI employees' salaries, unless federal law applies. This means that if exemptions exist under either the Open Records Act or federal law, then they would apply, depending on the type of request made for public disclosure of information.

Therefore, subject to legal exceptions, the Open Records Act applies to UVI. If you have any question or seek further guidance on the Open Records Act, or specific requests, then please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Claude Earl Walker". The signature is written in a cursive, flowing style.

Claude Earl Walker, Esq.
Attorney General