Government refuses to account for expenses

By JONATHAN AUSTIN
Daily News Staff

ST. THOMAS – Senators entered 2016 an election year — with leadership still not acknowledging a public record request for details on how much they spent to attend an August meeting of the National Conference of State Legislatures in Seattle.

On Oct. 15, The Daily News emailed a request to Senate Executive Director Iver Stridiron and to Ryan Nugent, the Committee Coordinator in the office of Senate President Neville James, asking for an accounting of expenses for elected members of the V.I. Legislature, members of Legislature staff, Legislature contractors, other V.I. government personnel and guests who attended the conference.

Neither Stridiron nor the Senate president’s office ever responded to the request.

The Legislature’s willingness to ignore the law is reminiscent of its foot dragging as the 31st Legislature began, when The Daily News sought information on how much it spent to host multiple swearing-in events across the territory.

At last count, the Legislature had directed public coffers to use $117,628.78 for their parties, at a time when Gov. Kenneth Mapp had publicly said the government was “teetering on the brink of financial collapse.”

The law says the people have the right to inspect documents and records of the government. Virgin Islands Code defines “public records” to include all records and documents of or belonging to the territory or any branch of government in the territory or any department, board, council or commission of any branch of government.

The law notes that “it shall be unlawful for any person to deny or refuse any citizen of this territory any right under this chapter, or to cause any such right to be denied or refused.”

When he was the acting attorney general, James Carroll III told The Daily News that it was his opinion that a government agency should respond to public records requests within 30 days.

The Legislature is just one branch of government that chooses to ignore legitimate public record requests.

Government House and Gov. Kenneth Mapp are also stonewalling on sharing information about what it spends.

On Oct. 15, The Daily News emailed a request to Government House seeking “an accounting of spending by or on behalf of Deigo Conde,” who was listed on the government payroll as executive photographer for Government House earning $55,000 a year. The request was copied to Attorney General Claude Walker.

Soon thereafter, Conde’s name disappeared from an online list of government employees maintained by the Division of Personnel. However, his name has since reappeared on that database, suggesting that he is on the payroll.

On Oct. 15, The Daily News emailed a request to Government House seeking “an accounting of spending by or on behalf of Clara Freeman,” who was listed on the Government House payroll as an executive photographer earning $40,000 a year. The request was also copied to Walker.

Despite the legal record requests, Government House has not provided any information about the two personal photographers working for the governor.

On Oct. 15, The Daily News emailed a request to Government House seeking copies of “all authorizations for inter-island travel within the U.S. Virgin Islands by executive branch workers — including all elected and appointed officials, payroll employees and contractors beginning Jan. 3, 2015. There has been no response.


There has been no response. On Oct. 27, The Daily News emailed a request to Neville Varlack, director of the Business Office in Government House, seeking copies of all account statements for any and all credit cards issued to the Virgin Islands government and used by or on behalf of Gov. John deJongh Jr. during the period Jan. 3, 2011, through the present date.

There has been no response.

In October, LaVerne Mils-Williams, who worked as an attorney in the governor’s legal counsel office, sued Mapp, Chief of Staff Randy Knight, and the governor’s office, claiming that she lost her job because she obeyed the law in releasing Government House travel and credit card records to the news media.

In her suit, she claims that she was fired in retaliation for releasing the records without letting Mapp and Knight alter them to remove unfavorable details.

Mils-Williams argued in her suit that Government House would stop responding to requests for public records.

“It was also made clear to the plaintiff that she was to stonewall any additional Freedom of Information Act requests in order not to produce any more documents,” the suit says.

On Oct. 30, The Daily News requested employee salary information from the V.I. Next Generation Network, a public corporation that exists as a subsidiary of the Public Finance Authority.

ViNGN president and Chief Executive Officer Tonjia Coverdale responded, saying none of the corporation’s employees is paid with government funds.

On May 11, the newspaper asked the West Indian Company Ltd. to provide records regarding WICO’s decision to pay the cost of housing the governor.

WICO has refused to share documentation about its process for deciding it was responsible for the cost of housing the governor.

— Contact Jonathan Austin at 714-9104 or email jaustin@dailynews.vi
Mapp defends buying booze, food on public’s dime as rightful expenses

By JONATHAN AUSTIN
Daily News Staff

ST. THOMAS — Gov. Kenneth Mapp defended his spending practices Tuesday during a Government House press conference, saying that food and alcohol charged to his government credit card is purchased for entertaining.

Mapp also said that the government is working on creating a web portal at which receipts and statements of expenditures will be posted for public viewing.

The statements came in response to questions about why the executive branch has ignored public record requests filed by The Daily News seeking an accounting of expenses that range from the employment of two staff photographers at Government House to how much the government spends to fly staffers around the territory.

“The Daily News is very exuberant in its public records requests and you should continue to do that,” Mapp said.

He said the issue of delayed responses may be resolved when the government can launch what he repeatedly referred to as a “portal” where information will be displayed.

The law says the people have the right to inspect documents and records of the government.

The V.I. Code defines “public records” to include all records and documents of or belonging to the territory or any branch of government in the territory or any department, board, council or committee of any branch of government.

The law notes that “it shall be unlawful for any person to deny or refuse any citizen of this territory any right under this chapter, or to cause any such right to be denied or refused.”

When he was the acting attorney general, former Superior Court Judge James Carroll III told The Daily News that it is his opinion that a government agency should respond to public record requests within 30 days.

Some of the public record requests by The Daily News were filed more than two months ago, and until Tuesday, no one in Government House had acknowledged receiving them.

Mapp said no one is working to address answering the requests.

“We don’t have anyone on staff who’s assigned to that task,” he said.

Government House previously assigned such work to LaVerne Mills-Williams, who worked as an attorney in the governor’s legal counsel office. She released copies of staff credit card statements — including Mapp’s — in September in response to public record requests. She then was transferred to the V.I. Justice Department and subsequently fired.

Mills-Williams sued the governor and members of his senior administrative staff, claiming she had been wrongfully terminated as retribution for releasing the records.

Mills-Williams argues in her suit that Government House did not want to respond to requests for public records.

“She was to stonewall any additional Freedom of Information requests and not produce any more documents,” the suit says.

Mapp was unconcerned Tuesday that his administration is in violation of the law and that legal record requests are ignored by the executive branch.

“I am not bothered by it, just to be bold and frank about it. There’s no way you’re going to have a governor of any place in America that’s not going to have expenses, and the public is free, and the media is free, to debate what these expenses are, and whether they’re appropriate or inappropriate, that’s all good and fine,” Mapp said. “As long as I know I’m not taking any of the government’s money and spending it on my personal expenses, and making inappropriate expenses, and these are funds that are authorized to my budget to operate the office of the governor, I will have to do what I have to do.”

Regarding why he had used his government credit card to purchase beer and groceries at a Red Hook grocery, he replied that alcohol is frequently served at Government House functions.

“When the government does entertainment for events and for people, we serve alcohol,” he said.

Mapp’s March 7 receipt from Moe’s Fresh Market in Red Hook included a number of groceries, including Coors Light for $25.99; a package of Nilla Wafers for $3.89; a box of Milk Duds for $1.89; two bottles of Cupcake Sauvignon Blanc wine at $12.99 each; a box of Texas Toast for $4.29; a pack of broccoli florets for $2.59; ripe bananas for $1.96; two containers of Haagen Dazs ice cream for $7.59 each; and numerous other foods and meats.

The groceries were purchased at 4:51 p.m. on a Saturday.

“I’m not buying the beer and putting it in my pocket,” Mapp said Tuesday. He said the purchases are made because he is “entertaining executives.”

The purchase of beer and wine is “in our budget. They are authorized,” the governor said.

Governing “includes entertainment,” Mapp said, and if guests want alcohol, “they can have it.”
A failure to communicate

Mapp embraces authoritarian tradition despite election vows of transparency, experts say

By JONATHAN AUSTIN
Daily News Staff

The Mapp administration has expanded its communications department to begin the governor’s second year in office, yet Government House is failing to provide the public with accurate and timely information.

According to experts in political science and First Amendment issues, a government’s ability to communicate to the public is vital to the administration’s success and establishing a sense of trust with the people that government serves.

This month, the communications office for Gov. Kenneth Mapp’s administration sent out email labeled as coming from Communications Director Nicole Bollenti; from Deputy Communications Director Samuel Topp; from a Government House staffer named Thomas VanSlyckman; from a generic return address labeled “Government House”; and from another return address labeled “Press Office.”

Some of the emails haven’t arrived, while some have ended up lost in spam filters. Government House statements also have been sent out multiple times from different people, with no notice about whether they differ in content, and some press releases are tucked beneath other statements and sent on emails bearing a subject line indicating only one press release is enclosed.

The result is that no one in Government House appears to be tasked with the responsibility of communicating with the public.

Bollenti, who was hired in January, says she isn’t there to answer questions or return phone calls. She has also chastised Daily News reporters for calling her cell phone after regular working hours.

She has identified Topp as the point man for communicating with media, but the former radio announcer often responds to questions from reporters by saying, “I’d like to know that, too.”

He also often lectures journalists about how he thinks they should do their job and has refused to get information, saying that he isn’t there to do a reporter’s job for them.

VanSlyckman began sending out Government House press releases in January. The Daily News responded, asking who he was and for whom he worked.

“I report to the chief of staff and deputy chief-of-staff,” he responded by email. “My title is executive assistant to the deputy chief of staff.”

We have an authoritarian system we have inherited from the Danes. Our leaders don’t see the need to come before the press and be challenged. Our leadership doesn’t like to be challenged. When you start questioning, asking ‘where’s the missing dollars?’ then it’s a problem, because you are challenging leadership. Our leadership doesn’t like to be challenged.

— Malik Sekou, professor of political science at the University of the Virgin Islands

We have an authoritarian system we have inherited from the Danes. Our leaders don’t see the need to come before the press and be challenged. Our leadership doesn’t like to be challenged.

—— — Malik Sekou, professor of political science at the University of the Virgin Islands

Thomason said, “They are a proxy for the public. Their job is to tell the public what the government is doing.”

When government tells the press that “you have no right to know this, they are thumbing their nose at the public,” Thomason said.

Explanation not distraction

Sekou said a good government uses its voice to explain rather than to distract. When it speaks, the message “has to be information that is well thought out, it is accurate, it is substantiated by further research. And once it is given, the person is willing to deal with questions.”

However, the Virgin Islands’ tradition is to perceive constructive criticism as an attack, according to Sekou.

“They don’t perceive hard questions for what they are,” he said. “You have to answer them. When the tough questions are asked, control your temper, control your tongue, and answer the questions with respect and wisdom.”

Sekou said new technology can improve the government’s ability to reach the people, but it also can create new problems for those in leadership.

Can technology foster more open government?

In one sense, yes, if you’re well-organized and you have a competent communications department,” Sekou said. “If you...
have it together, yes. If you don’t, no. If the person in charge of the communications department isn’t on the ball, it is meaningless.”

Sekou said the Mapp administration has its own idiosyncrasies when it comes to communicating.

“It may appear to be personal, but it is more systemic,” he said. “We have an authoritarian system we have inherited from the Danes. Our leaders don’t see the need to come before the press and be challenged. Our leadership doesn’t like to be challenged.

“When you start questioning, asking ‘where’s the missing dollars?’ then it’s a problem, because you are challenging leadership,” Sekou said. “Political culture in the Virgin Islands has this tendency to reject questions, to reject transparency. I cannot think of a single governor who could handle the press coming at them. I don’t recall a single leader saying, ‘Daily News, come and ask any question and I will answer you.’”

‘Wall of silence’

Sekou said all governors like simple questions that put them in a positive light.

He said the tradition in Government House is the attitude of: “You can ask the easy softball questions, but when it comes to issues of money and power, those are off limits.”

Certain issues won’t be addressed, Sekou said. “The hard questions are not to be asked, and if you ask them there’s going to be a wall of silence” in response.

Thomason said arrogance by a leader leads to arrogance among the governing staff.

“Even the department of communications is a public trust,” he said. “All the people should ask for is that they follow the law. There’s a public information law for the territory. They should release information that is sought,” without rancor or delay.

Yet Mapp responds to questions about his failure to fulfill public record requests by announcing that no one in his government is tasked with responding. Government House now seems to prefer communicating by press release.

“It sounds like the department of communications is more a department of obfuscation,” Thomason said. “It goes back to the arrogance of failing to realize that they are not talking to journalists, they are talking to the people. They prefer telling the people: ‘You don’t have the right to know what we are doing.’”

Thomason said the public has a right to question government when its promises don’t pan out.

“Obviously people do have expectations based upon what government officials say. That’s often the reason why they hide the reality,” he said.

For example, Mapp’s reality, as announced in his State of the Territory speech, was that there were 876 funded, vacant positions available in government, and “the Division of Personnel is now accepting new applications for employment with the government online.”

However, residents interested in applying for jobs said the Division of Personnel office was closed for most of the day immediately after Mapp’s speech, and few jobs were posted on the division’s website in the ensuing week.

Thomason said such lack of preparation reflects the attitude that government wants to bask in the glow of success while not actually caring to make sure success is possible. “They get the publicity about having announced jobs or programs, but then there’s no accountability. Really, that’s all that the media should be asking for: If you say it, prove it. It’s not being aggressive or militant; that’s what’s called America. If a government official says something, we have a right to ask about it.”

Sekou said the Mapp administration should have known it would have issues with frank and honest communication. “This administration, their biggest challenge is to practice what it has promoted. Transparency means not only to discuss your successes but to answer to your failures. It takes courage to stand before the public and admit missteps or miscues. He said it is difficult for Mapp to say: ‘There’s a weakness here.’

“When you come poking, asking questions, they tend to falter or become hostile. They perceive the tough questions as an attack,” Sekou said.

Can the public lose confidence in a governor who fails to communicate?

“Of course it will lose confidence if it is a belief of a lack of transparency and honesty,” Sekou said. He said he teaches such in his introductory to political science classes at UVI.

“The minute a government is perceived as not being forthright, it’s in trouble. It has to always ensure its public postures, its public communications, are clear, consistent and meaningful.”
Attorney: Government lying about malpractice fund

By JONATHAN AUSTIN
Daily News Staff

ST. THOMAS — A St. Thomas attorney involved in a medical malpractice suit against Schneider Hospital and a local doctor has told the court that the government is lying about the condition of the territory’s medical malpractice fund.

Attorney Julie Evert has asked a VI Superior Court judge to find the defendants in the case in contempt after repeated delays in the government’s willingness to pay a mediated settlement.

The move came after attorney James Hymes III — who represents the government-operated hospital — asked the court last November to give the defendants more time “to remit the settlement payment.” The only way to determine the facts whether a Medical Malpractice Trust Fund exists and is adequately funded for purposes of paying medical malpractice settlements, is for this honorable court to conduct a hearing with the “powers that be” present to testify.

“This honorable court has jurisdiction and inherent authority to ensure that settlements are paid, which indicates it is committed by defendants agreeing to pay a sum certain by a certain date, and then refusing to pay the sum by claiming that there are ‘issues’ out of their control. If the Medical Malpractice Fund were indeed funded and segregated as a trust account, the money would be present, and there would not be issues of failure to pay. If there is in fact a trust account and the defendants are willfully refusing to write settlement checks, then they should be held in contempt. If there is no trust account, then the persons asserting that such an account exists should be held in contempt.”

Contact Jonathan Austin at 340-714-9104 or email jaustin@dailynews.vi.

By JONATHAN AUSTIN
Daily News Staff

Court urged to hold hearing

Attorney Julie Evert authored this argument about the territory’s Medical Malpractice Fund in a Feb. 23 motion filed with the Superior Court:

“It appears that the Virgin Islands government, through its counsel, is attempting to obfuscate the fact that the Medical Malpractice Trust Fund appears not to be segregated and funded as required by law. It appears that there is no Virgin Islands Medical Malpractice Trust Fund, because if there were, it would be adhered to and trust and available to pay plaintiffs.

“Defendants are obviously aware that they will open up another can of worms if they claim there is a Medical Malpractice Trust Fund but that it is not adequately funded because defendants will then be admitting that they settled cases knowing that the fund is inadequate to pay its settlements. If such admissions are made, then it is highly likely that the plaintiffs in this case and other plaintiffs will seek to void their settlements, void the statutory limits, and seek to file fraud charges against the persons involved in procuring the settlements, which have not been paid, and which were knowingly (if proven) made when the persons signing off on such settlements knew, or should have known, the Trust Fund was either non-existent and/or inadequately funded. The only way to determine the facts whether a Medical Malpractice Trust Fund exists and is adequately funded for purposes of paying medical malpractice settlements, is for this honorable court to conduct a hearing with the ‘powers that be’ present to testify.”

In a response filed with the court, Hymes wrote: “I do not believe there is a trust fund that is holding the money paid by health care providers, pursuant to law. I do not believe that $2 million has been paid out in 2015. I do not know that someone is lying, in that the representations made to me, by you, directly contradict the press release” issued by the government, she wrote. “I do not believe you lie, or would lie, to protect a client, and I believe that the press release contains many falsehoods.”

“It is your client who is lying to the public, either lying to the plaintiff’s attorneys or lying to the general public,” she wrote.

In a response filed with the court, Hymes wrote that “the defendants and their representatives have done everything within their power to get the settlement check issued.” He also argued that Evert “intentionally engaged in an unethical and unprofessional course of conduct in violation” of rules of mediation.

Hymes said he could not comment for this article because he feels “it is unethical and unprofessional for an attorney to comment publicly on a pending case which is the subject of a mediated settlement agreement.”

He argues that the letter, regarding an unsettled case, “was privileged, confidential and not subject to disclosure.” Hymes calls Evert’s conduct “reprehensible.”

Evert’s response says Hymes hasn’t provided any details about what he has “done to get the settlement check issued” and she says that there are other cases throughout the territory which were settled months ago “and still have not yet received their settlement funds.”

She also argued that any letter to her from Hymes has nothing to do with the Samtani case.

Evert continued: “Attorney Hymes is essentially begging the plaintiff and her counsel to trust them that payment will be made when they can get it made, yet this directly conflicts with Attorney Hymes’ statements in a different malpractice case argument from Nov. 13, 2015, in which Attorney Hymes admitted to the court that he has no idea how to get his client to issue a check.”

She again referred to the government’s press release in which it said the malpractice fund is healthy.

“It appears that the Virgin Islands government felt pressure to issue a press release on Dec. 18, 2015, claiming that the Medical Malpractice Fund is ‘stable,’” she wrote. “Because, if true, then why are medical malpractice settlements not being timely paid?”

Hymes said he could not comment for this article because he feels “it is unethical and unprofessional for an attorney to comment publicly on a pending case which is the subject of a mediated settlement agreement.”
Expert: Mapp’s credit card secrecy ‘a serious problem’

By JONATHAN AUSTIN
Daily News Staff

The Office of Management and Budget has not responded to a request from the Senate Finance Committee chairman seeking specific details about who possesses government credit cards and what oversight governs the cards’ use.

Sen. Clifford Graham sent the letter to OMB Director Nellon Bowry on Nov. 9, though inter-mail confusion at the time delayed its delivery by several days.

Last week, Graham said he “did not receive any feedback or response from OMB as of yet.”

The letter, sent on Legislature letterhead, asked for a listing of the number of credit cards by government agency; a list of the names of the individuals holding credit cards; the name of the credit card company; and details about the process used by the government in selecting a credit card company.

The details, among others, initially were sought by Sen. Almando Liburd in a letter to Graham dated Nov. 9.

The letter asked for the status of credit cards issued during the delongh administration and whether all charges had been paid or settled from the past administration. Liburd also asked whether it is “possible to impose internal controls on the use of government credit cards”; whether there is a written policy on the use of government credit cards; whether there is “a system in place to reimburse the government for non-permissible charges”; and “who is responsible for ensuring late fees are not incurred.”

Bowry has not responded to emails from The Daily News seeking his comment about the status of his response to the request.

Last year, a series of Daily News articles detailed how Gov. Kenneth Mapp has used his office credit card for the purchase of beer, wine, groceries and more than $5,000 worth of sheets and towels at Macy’s in Miami, among other things.

A review of Government House travel records also showed that Mapp and employees in the executive branch used their government-issued credit cards to pay for room service and expensive meals. Some employees charged meals to their card when they also were collecting a per diem payment intended to cover the cost of food.

John Wonderlich, executive director of The Sunlight Foundation in Washington, D.C., said Friday that “a pretty serious problem” exists if no one is willing to answer Graham’s and Liburd’s questions about government credit cards.

Wonderlich said his foundation is a national, nonpartisan nonprofit organization that uses the tools of civic tech, open data, policy analysis and journalism to make government and politics more accountable and transparent to all.

“We’re a nonprofit dedicated to openness and accountability from the government,” he said. The foundation took its name from a statement by Supreme Court Justice Louis Brandeis, who wrote early in his career that “sunlight is said to be the best of disinfectants.”

Wonderlich said the public should expect a government to know who has government credit cards, what they use them for and who is responsible for policing their use.

“That’s a completely reasonable expectation. Someone should be able to produce the records,” he said. “That’s a completely reasonable request. Maybe it takes a few weeks, but this should be a question with a determinate answer.”

It’s also completely reasonable that the public should be able to find out who has access to that purchasing power, and who has guidelines for its use.

“There should be someone responsible. Someone has set up those accounts and approved them,” he said. “In terms of power, the chief executive, who is the ultimate boss, is responsible. The ultimate accountability has to rely with him.”

Wonderlich said said the question at the heart of Liburd’s letter is not about whether expenses are appropriate.

“It’s not uncommon for there to be controversy, or back and forth, about a specific expense. ‘Was this appropriate? Could this money have been spent better?’ That’s a normal thing for there to have public debate about. But it’s not usual for there to be a question about whether the accounts should be traceable,’” he said.

Wonderlich, an expert on government transparency who has testified before Congress, said it sounds like the Virgin Islands government lacks basic financial controls.

“There’s a question of whether anyone is safeguarding how the public funds are being spent and managed,” he said.

The responsibility for that rests in the governor’s office, Wonderlich said.

“That tone has to be set at the top,” he said.

Wonderlich said replying to requests for public records by saying that offices lack the technology or personnel resources, as Mapp frequently has claimed, could be a dodge.

“It suggests that they may be trying to cover with inaction. Every agency is likely to say they have resource problems and they wish they had more staff,” he said. “But this is a pretty basic situation. It is: ‘How do you decide to cover with inaction.’”

The lack of answers raises a question about their intentions,” Wonderlich said.

He also said that attitudes expressed by those in charge directly contribute to others acting the same.

“The more it happens, the easier it is to happen more. We see that a lot,” he said. “Sometimes when people are acting with impunity, it makes it easier for everyone else to feel like it’s OK,” he said.

The way to fix the problem is simple and surprisingly difficult, Wonderlich said.

“You need someone to act against the trend and stand up for the public. Someone has to stand up for what the public interest is intended to do, which is to support the public interest,” Wonderlich said. “In places with greater poverty, that makes that need all the more acute.”

The Daily News was able to expose the liberal use of government credit cards because an attorney working in Government House released several months of credit card statements and travel records to the media. She claims that she was fired for doing so, and since then, she has sued the governor’s office, the governor, and his chief of staff, Randolph Knight. She also has sued Attorney General Claude Walker for what she claims is his role in her firing.

Despite several requests, Walker has not been willing to make Government House respond to a November public record request filed by The Daily News seeking additional Government House credit card statements.

“Everyone loses if that doesn’t occur, according to Wonderlich.

“Everyone’s losing out on the opportunity to support better outcomes for everyone. That’s what the public purse is there for: to strengthen society, to help the people who need it the most,” he said.

“If there is a political culture of using public funds to support private interests, that corrodes the very nature of the state. I think it’s really important for people to expect better.”
Walker says delay in answering record requests is OK

Says transparency website is nearing completion more than two years after required by law

By JONATHAN AUSTIN
Daily News Staff

Government House continues to stonewall any response to a public records request for copies of recent executive branch credit card statements, and now the attorney general is echoing the need for delay.

The Daily News filed a record request Nov. 12 seeking copies of “all bills, invoices, account statements or other requests for payment for any and all credit cards issued to the Virgin Islands government and used by or on behalf of officials, staff or contractors in the Executive Branch during the period July 8, 2015, through the present date.”

The filing followed an earlier request that resulted in Government House supplying copies of credit card statements for executive branch employees for earlier months in the Mapp administration.

“I have inquired as to the request, and as Government House has repeatedly publicly stated, a transparency website is being developed which is nearing completion that will make available the type of information which your newspaper has requested. This is the first time that this is being done, so please be patient,” Attorney General Claude Walker wrote in an email so please be patient,” Attorney General Claude Walker wrote in an email so please be patient,” Attorney General Claude Walker wrote in an email so please be patient,” Attorney General Claude Walker wrote in an email so please be patient,” Attorney General Claude Walker wrote in an email.

Gov. Kenneth Mapp has publicly said that no one in Government House has been tasked with responding to record requests, despite the fact that Virgin Islands Code says: “Every citizen of this territory shall have the right to examine all public records and to copy such records, and the news media may publish such records, unless some other provision of the Code expressly limits such right or requires such records to be kept secret or confidential.”

The records sought are public records, as Government House and other government agencies — including the Public Finance Authority, the Virgin Islands Broadcasting System and the Virgin Islands Housing Authority — have acknowledged when they readily shared copies of credit card statements for government accounts.

Walker’s latest delay contrasts dramatically with comments he made last year about how government agencies should respond to public records requests within 30 days.

If Government House ever unveils a “transparency website,” it finally would be complying with the landmark 2012 Government Transparency Act that requires government agencies to post their financial records and expenditures online for all to see.

The legislation, sponsored by St. Croix Sen. Nereida Rivera-O'Reilly and enacted over Gov. John deJongh Jr.'s veto, mandates that the government of the Virgin Islands “establish and maintain an official Internet website that is electronically searchable by the public at no cost and that contains a comprehensive database of recipients and expenditures of the territory's funds.”

The law said the database was to be established on or before June 1, 2013.

Malik Sekou, a professor of political science at the University of the Virgin Islands, told The Daily News in February that the issue over public record requests could rest on the premise that “leadership doesn’t like to be challenged.”

Sekou, who once ran for lieutenant governor as Mapp's running mate, said: “When you start questioning, asking ‘where’s the missing dollars?’ then it’s a problem, because you are challenging leadership,” he said. “Political culture in the Virgin Islands has this tendency to reject questions, to reject transparency. I cannot think of a single governor who could handle the press coming at them. I don’t recall a single leader saying, ‘Daily News, come and ask any question and I will answer you.’

“The Daily News tends to ask tough questions. What is clear for the public to observe is that, it is one thing for this governor, or the Legislature, or anyone else in a leadership position, to say ‘Come and ask questions. But don’t ask the tough question,’” Sekou said.

A former Government House attorney says she paid the price for trying to follow the law regarding public record requests.

LaVerne Mills-Williams, who was a deputy legal counsel in Government House until Sept. 30, has sued Mapp, chief of staff Randy Knight and Walker, arguing that she lost her job because she had released the travel and credit card records to the news media but the governor and Knight wanted to alter records to remove unfavorable details.

“It was also made clear to the plaintiff that she was to stonewall any additional Freedom of Information requests and not produce any more documents,” the suit says.

Government House is not the only branch of government ignoring the law.

The Legislature has not responded to a public records request seeking details about a trip several senators took in August to attend a meeting of the National Conference of State Legislatures in Seattle.

On Oct. 15, The Daily News emailed a request to Senate executive director Iver Stridiron and to Ryan Nugent, the committee coordinator in the office of Senate President Neville James, asking for an accounting of expenses for elected members of the VI. Legislature, members of Legislature staff, Legislature contractors, other VI. government personnel and guests who attended the conference.

No one in the Senate has provided the records for the trip.

The Legislature also has refused to comply with the law and fulfill The Daily News' request for Legislative salaries.

— Contact Jonathan Austin at 340-714-9104 or email jaustin@dailynews.vi.
University of the Virgin Islands President David Hall said the school’s board of trustees will go into executive session at its meeting on St. Croix on Saturday to discuss whether they will begin complying with the territory’s open records law.

For years, the university has continually violated the Virgin Islands Open Records Act by refusing to provide the public with salary information about its staff and employees.

Even after Attorney General Claude Walker sent a formal letter in March to Hall stating specifically that “the Open Records Act applies to the university,” Hall declined to release the information.

“The executive committee of the board did discuss the AG’s opinion and felt that this decision was of such great significance that the entire board of trustees should be provided an opportunity at its next meeting to address this situation,” Hall told The Daily News a few days after receiving a copy of Walker’s opinion. “This item will be on the board’s agenda at that meeting on June 4.”

However, when the university released its agenda for Saturday’s meeting, there was nothing on it about the board discussing complying with the law and providing the public information being sought.

“The agenda item in question is on the agenda of the board of trustees Saturday, June 4, 2016, meeting; however, it is not on the agenda for the regular session,” Hall said in a statement to The Daily News that he issued Thursday. “All matters involving personnel and legal advice from counsel are addressed in executive session. The university’s board of trustees will address this matter in executive session and report out any actions taken in executive session before adjournment of the regular session.”

On Thursday, UVI board Chairman Henry Smock would only say that Hall’s comments reflect the board’s “intended” course of action for Saturday.

Hall has previously argued that the university’s public information policy prohibits releasing the information. In fact, the school initiated the general’s involvement, Hall said, when — on advice of legal counsel — the board asked him for guidance regarding the newspaper’s records request.

Walker has publicly said that the Open Records Act applies to agencies that receive public funds.

“When public monies are used to pay salaries, I don’t care whether you’re a semi-autonomous agency or an autonomous agency, the public has a right to know,” — V.I. Attorney General Claude Walker

Walker then went further, saying a willingness to hide public information can lead to problems.

“History has shown that secrecy has only created an environment that’s conducive to corruption. The secrecy concerning compensation in the Virgin Islands has only served to create an environment that’s conducive to people stealing,” he said.

After its March 5 meeting, Hall said the board did not want to rely on Walker’s public statement alone, and was waiting for the attorney general’s written opinion before deciding whether to release the records.

Walker’s answer to Hall was dated March 7. “The Open Records Act applies to UVI,” the attorney general wrote.

The university’s public information policy does not specifically address public access to the salaries and names of employees, but it does specify whether information in personnel files can be released.

“No information from the personnel file of any employee shall be provided to individuals who are not authorized university employees other than to confirm that the employee is in fact employed by the university, unless express authorization for such disclosure is given in writing by the employee or a determination has been made by Director of Human Resources that the information may be released,” states the policy, which was approved in 2007.

However, the board’s policy also says that local law trumps the school’s rules. “In cases where UVI documents and information are subject to regulation under federal or local law, such federal or local law prevails over this policy in the event of a conflict,” it reads.

“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,” Walker wrote in his formal response to the university.

The university board is scheduled to meet at 10 a.m. at UVI’s campus on St. Croix.
UVI: Open Records Law does not apply

By JONATHAN AUSTIN
Daily News Staff

The board of trustees at the University of the Virgin Islands said Saturday that the Virgin Islands Open Records Act “does not apply to the university.”

However, the board voted to “allow the president of the university, once each year, upon written request from a Virgin Islands newspaper, to provide a listing of the name, job title, and salary of all employees of the University.”

The board action said the move was made “in order to dispel any suspicion that the university is withholding this information of its employees because of some ulterior motive and in furtherance of the interests of the university,” according to the text of the resolution.

Territory law says any resident has the right to inspect documents and records of the government, and Attorney General Claude Walker has previously told the university that the Open Records Act applies to all agencies that receive public funds, including the university.

The board’s action left no doubt about whether it thinks the university — which receives millions of dollars in taxpayer funds each year — must comply with territory public record laws.

“After receiving legal advice from its general counsel and the results of deliberations on this issue by the University’s Governance Committee, it is the position of the board of trustees that, pursuant to Title 17, Section 453 (b), which states “Nothing in this chapter shall be construed as exempting the University of the Virgin Islands from any law made specifically applicable thereto or generally applicable to independent instrumentalities of the Government of the United States Virgin Islands, whether such law was enacted before, on, or after the date of enactment of this subsection,” and pursuant to Virgin Islands’ case law on identical language that refers to another independent instrumentality, the Open Records law does not apply to the university because it does not specifically apply to the university nor has it been made generally applicable to independent instrumentalities,” the policy states.

“Nothing herein shall be construed as the university accepting that the Virgin Islands Open Records Act has any applicability to the university, or that the March 7, 2016, opinion of the attorney general has correctly identified the state of Virgin Islands law with respect to the application of the Virgin Islands Records Act to the university specifically, or generally to independent instrumentalities of the Government of the Virgin Islands.”

The move came after months of stonewalling by university leaders regarding a request from The Daily News for a list of university employees and their salaries.

Hall only said that the full copy of the resolution “should address questions” about the policy.

Board Chairman Henry Smock did not respond to a request for comment on Sunday.

Meeting on its St. Croix campus, the board voted to establish two new master of Arts degree programs in the School of Education: the masters of arts degree in educational leadership and the masters of arts in school counseling and guidance.

The Board approved new policies for the School of Medicine; amended the university’s sexual misconduct policy; amended the human resources policy manual; ratified the university’s fiscal year 2017 budget appropriations request of $34,371,750; amended the orientation process for new board members; and established the UVI at University of Saint Martin Foundation.

The board also granted tenure to two faculty members. It didn’t announce the two by name.

— Contact Jonathan Austin at 340-714-9104 or jaustin@dailynews.vi.
The attorney general says the attitudes adopted by the administration of the University of the Virgin Islands regarding public access to records is “indefensible” and, by law, could result in criminal prosecution.

Attorney General Claude Walker said Monday that he had read a letter from university president David Hall that was published in Saturday’s Daily News and he said the position put forward by the university and its board of trustees is misplaced.

“I have reviewed Dr. Hall’s letter, and with each day that goes by, the board continues to maintain an indefensible position that is not in full compliance with the Open Records Act and the will of the people of the Virgin Islands to exercise their lawful right to examine how this public entity makes expenditures,” Walker said. “The University of the Virgin Islands receives millions of dollars annually directly from the people’s treasury. The taxpayers have a right to inspect all of UVI’s contracts and salaries, a detailed list of executive perks, and a full review of all the credit card bills that are ultimately paid for by the people.

Virgin Islands taxpayers have a right to exercise vigilance over the expenditures of public instrumentalities receiving public funds to discourage or prevent the notorious practice that is well-documented where some at these entities were living the highlife off of the backs of the people, with excessive compensation packages and extravagant spending.”

— V.I. Attorney General Claude Walker

Walker then brought up the fact that violating the Open Records Act is a criminal act.

“A conclusion has to be reached on whether the law is being broken,” Walker said Monday.

He pointed out that the Open Records Act says the law “may be enforced by mandamus or injunction.”

A writ of mandamus is a court order commanding that a specified thing be done.

The next section of the law, Walker said, regards the penalty.

“It shall be unlawful for any person to deny or refuse any citizen of this territory any right under this chapter, or to cause any such right to be denied or refused. Any person knowingly violating or attempting to violate any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than $100,” he said.

That means any citizen can file a complaint to force a civil action, or the attorney general’s office can file “some sort of action,” Walker said.

“We have not made any determination about any action, the attorney general said. “As you know, I sent a letter to Dr. Hall requesting that the board reconsider the matter. I’ve not received any response.”

In that June 6 letter, the attorney general reiterated how he thinks the law applies to the school, and he asked that the board reconsider its resolution.

“Virgin Islands law requires that any person, including a student, taxpayer, UVI faculty or employee, should be granted full and complete access to a listing of the name, job title, and salary information of all employees of the university, at any time during the year,” he wrote.

Hall said Monday that Henry Smock, the chairman of the UVI board of trustees, is responding to Walker.

“I will check, but I believe he has already responded to the attorney general, or is in the process of doing so,” Hall said.

Walker suggested that he was awaiting a response before taking any further action. “I’m still waiting for a response from Dr. Hall.”
V.I. Legislature doesn’t see financial reports as required by law, says outgoing lawmaker

By JONATHAN AUSTIN

Daily News Staff

A departing Senate leader says the territory government isn’t enforcing laws requiring recipients of government funds to file financial reports.

“T’ve said for a very long time the Virgin Islands doesn’t suffer from a lack of laws. We suffer from enforcement of a lot of laws,” said outgoing Finance Committee Chairman Sen. Clifford Graham.

Graham was responding to questions about Chapter 2, Section 29 of the V.I. Code, which says “all recipients of grants of funds from the Treasury of the Virgin Islands for whatever purpose, but excluding educational scholarship grants, shall submit to the governor and the Committee on Finance of the Legislature within six months from the effective date of said appropriation, or whenever at least 75 percent of the appropriation is expended, whichever occurs sooner, an initial financial statement.”

The law says follow-up financial statements regarding the grant funds must be provided “every six months thereafter or whenever 100 percent of the appropriation is expended.”

Questions to Graham regarded Senate appropriations doled out to a handful of selected nonprofits in May to the tune of $1,344,500. The appropriations were the resumption of Senate efforts to allow each senator access to a fund of money from which favored charities or nonprofit groups could be funded.

That initial measure was scrapped last January when Gov. Kenneth Mapp vetoed the bill at the request of Senate President Neville James.

Some residents saw the fund as a way for elected officials to curry public favor during an election year by dishing out tax dollars to selected charities.

The idea of earmarking additional funding for select nonprofits returned in May when the Senate approved funding from a list of organizations apparently compiled by Senate leaders.

The list included the United Way of the Virgin Islands, the Boys and Girls Club, Sparks Youth Group, The V.I. Bowling Federation, and the Elrod Hendricks Little League.

All of those organizations get funding through the annual budget, but the May bill allowed legislators to give them additional funds.

“Generally, no, I don’t see a report” from the recipients of government grants, Graham said.

“Every nonprofit is awarded money under a government department or agency, so that department or agency is responsible to get financial information,” Graham said.

Asked how well that works, he replied: “It varies from department to department. Some departments do an excellent job in ensuring the nonprofits have the annual report before they release the next years’ funding. ‘Others are not following the mandate of the law,’ he said.

“We expect the department or agency to do their job and report to the Legislature on the respective information,” Graham said.

Graham said the Legislature has given its post audit department broad power to gather information regarding funding and expenditures, but he acknowledged the Legislature’s budget doesn’t afford that department enough resources to address all questions. He said the post audit department is stretched to do its job.

Regardless, Graham’s comments suggest no one is requiring recipients of government grants to file financial statements as required by law.

“The chair of the Finance Committee has not received a report from any of the entities” that were funded with the May legislation, he said. “However, that does not mean the six months has passed” since the “release of the money,” which could have been delayed long after the bill was signed into law, he said.

— Contact Jonathan Austin at 340-714-9104 or email jaustin@dailynews.vi.