



St. Thomas/St. John Division
3730 Altona
Suite 200
P.O. Box 6040
St. Thomas, VI 00804-6040
Tel (340) 774-8181
Fax (340) 774-3052

**OFFICE OF THE
TERRITORIAL PUBLIC DEFENDER**
Government of the U.S. Virgin Islands



St. Croix Division
1-B Clifton Hill, 2nd Floor
P.O. Box 2635
Kingshill, St. Croix
U.S. Virgin Islands 00851-2635
Tel (340) 773-6312
Fax (340) 778-6823

June 4, 2025

Honorable Clifford A. Joseph, Sr.,
Chairman, Committee on Homeland Security,
Justice and Public Safety
Virgin Islands Legislature
3022 Estate Golden Rock
Christiansted, VI 00820

Via Email: senatorcliffordjoseph@legvi.org

Re: Testimony on Bill No. 36-0057

An Act amending Title 5 Virgin Islands Code, chapter 314, section 3733, subsection (a) to require automatic expungement of the arrest record and complaint or information when the accused has been acquitted

Dear Chairperson Clifford Joseph Sr.:

My name is Julie Smith Todman, and I am the Chief Territorial Public Defender for the Office of the Territorial Public Defender, which we call the “OTPD”.

Let me begin by thanking the Chairman, the members and staff of the Committee on Homeland Security, Justice and Public Safety of the 36th

Legislature for this invitation to testify on proposed Bill Number 36-0057:

An Act amending title 5 Virgin Islands Code, chapter 314, section 3733, subsection (a) to require automatic expungement of the arrest record and complaint or information when the accused has been acquitted. Let me also

extend my sincere gratitude to Senator Alma Francis Heyliger as the sponsor of the proposed Bill.

I would also like to extend warm greetings to each of you in the listening and viewing audience, distinguished guests, and to the members and staff of the 36th Legislature.

The Office of the Territorial Public Defender was established by title 5, section 3521 of the Virgin Islands Code to represent the indigent charged with crimes in court.

I appreciate the opportunity to provide you with the position of my office as to the changes to 5 VIC 3733(a). After considering the amendments promulgated in Bill 36-0057 (Bill 57), the Office of the Territorial Public Defender fully supports the contemplated changes. OTPD generally supports any effort to increase the availability and efficacy of expungements under Territorial law.

Bill 57 will amend Title 5 Virgin Islands Code, Chapter 314, Section 3733 to mandate automatic expungement of arrest and charging records upon acquittal. This transformative bill aligns the Virgin Islands with nine U.S. states and the nationwide clean slate movement, emphasizing significant cost savings and ensuring justice for Virgin Islanders.

To quote Justice Sonya Sotomayor, “[e]ven if you are innocent, you will now join the 65 million Americans with an arrest record and experience the ‘civil death’ of discrimination by employers, landlords, and whoever else conducts a background check.”¹

In the Virgin Islands, where most arrests are warrantless, acquitted individuals face a “civil death of discrimination” (*Utah v. Strieff*, 579 U.S. 232, 253, 2016). This is because arrest records, even after acquittal, can block jobs, housing, education, licenses, and volunteer roles, and these records are generally available for access by employers, landlords, and whoever else conducts a background check. (*Utah v. Strieff*, 579 U.S. 232, 253, 2016).

The OTPD previously testified before this body in the 35th Legislature for the expansion of automatic expungements in cases where no probable cause was found by a Judge. That Bill was passed and is now codified as Title 5 VIC 3732a. In my prior testimony and what is still relevant today, I noted that “in the past, there was a prevailing attitude that it was unnecessary to regulate access to outcomes less serious than a conviction – partially based upon the practical obscurity of most criminal records. However, the

¹ *Utah vs. Strieff*, 579 U.S. 232, 253, 136 S. Ct. 2056, 195 L. Ed. 2d 400 (2016)

advent of digitized record systems has opened up an entirely new industry that traffics in personal information. A criminal record – even when it is only the record of an arrest with no conviction – can have serious impacts upon a person’s life.” Here are some examples of that impact.

- Schools can and have denied admission to students based upon criminal arrests.
- Employers and licensing authorities can and have denied employment and professional licenses based upon criminal arrests.
- Landlords can and have denied housing based upon criminal arrests.
- Insurance companies can and have utilized arrest records as the basis for higher premiums.
- Other countries can and have denied entry to visitors with an arrest record.
- Well-intentioned community groups can and have utilized arrest records to deny access to volunteer opportunities.

Bill 57 will lower the harm done to the innocent by automatically expunging the arrest and charging records for those acquitted of the charges.

While untold moral benefits remain, there are also economic benefits that should be considered. For example, expungement raises wages by 23% (Prescott & Starr, 2020), cutting local welfare costs.

Furthermore, Bill 57 would result in reduction in recidivism rates as demonstrated in Michigan where Only 4% of Michigan expungement recipients are reconvicted within five years, mostly for minor offenses.

Bill 57 delivers crucial benefits:

Benefits of Automatic Expungement After Acquittal

- **Economic Empowerment.** Automatic expungement removes barriers to employment, housing, and education caused by arrest records, even for those acquitted. Expungement can raise wages by **23%** and add tax revenue (Prescott & Starr, 2020; Agan et al., 2023).
- **Public Safety. Recidivism Rates:** According to the empirical study by J.J. Prescott and Sonja B. Starr, only 4.2% of individuals who received expungements (referred to as "set-asides" in Michigan) were reconvicted within five years.
- **Judicial Efficiency and Cost Savings.** The petition-based expungement process under V.I. Code Ann. tit. 5, § 3733(a)(2) strains courts and individuals. Automatic expungement reduces backlogs and costs. In the

Virgin Islands, this efficiency will free judicial resources for active cases, ensuring swift relief for the acquitted.

- **Dignity and Public Trust.** An acquittal affirms innocence, yet persistent records stigmatize individuals, limiting civic participation. Bill 57 restores dignity by clearing records, aligning with the principle that justice does not penalize the innocent. This builds public trust reinforcing faith in Virgin Islands' justice system.

Conclusion

By allowing for the *automatic* expungement of these records upon acquittal, the Virgin Islands joins a growing movement.

The Office of the Territorial Public Defender fully supports efforts to increase the availability of expungements for Virgin Islanders. Making these processes automatic provides a great benefit to our citizens. I am pleased to provide my office's wholehearted support behind Bill 36-0057 as a crucial step toward a more equitable justice system.

Again, I thank this body for the opportunity to address this issue.