

FOIA Council  
July 18, 2011 Meeting Summary  
1:30 p.m., House Room C,  
General Assembly Building  
Richmond, Virginia

The Freedom on Information Advisory Council (the Council)<sup>1</sup> held its second quarterly meeting in Richmond to continue its deliberation on the bills referred to it for further study by the 2011 General Assembly, receive progress reports from its two subcommittees, welcome its four new members, and elect a vice chair.

Senator Houck welcomed Delegate Sal R. Iaquinto, Robert L. Tavenner, Kathleen Dooley, and Stephanie Hamlett to the Council. Each new member was appointed to serve a four-year term.<sup>2</sup> The next item of business before the Council was the election of a vice chair. Delegate Iaquinto was elected to that position by a vote of 11-0-1.

### **Subcommittee Reports**

#### *Criminal Investigative Records Subcommittee--*

Craig Fifer, chair of the Criminal Investigative Records Subcommittee, reported that the Subcommittee held its first meeting earlier in the day.<sup>3</sup> The purpose of this meeting was to study Senate Bill 1467 (Edwards) regarding access to criminal investigative records, and to consider a separate proposal concerning access to criminal and other law-enforcement records from the Virginia Press Association (VPA). Mr. Fifer reported that Senator Edwards was present and said one reason he had brought the bill was because there was inconsistency regarding what will be released by different law-enforcement agencies. While aware of the need for privacy in certain matters, Senator Edwards expressed that his experience was that many law-enforcement agencies would refuse to release records as a matter of policy to avoid improper application of discretion that might be perceived as biased or discriminatory. He further noted that FOIA already contains many other exemptions for information that would need to be protected in criminal investigative files that would still apply even after the investigation was over. Mr. Fifer told the Council that after considerable discussion, the Subcommittee recommended that no further action be taken on SB 1467. He noted, however, that the VPA had submitted a draft, which was reviewed by the Subcommittee. Staff suggested that it work with the interested parties to try to frame the issues on which there was agreement as well as those where there was no agreement. Staff will provide notice to all interested parties to ensure their participation in this informal facilitation process.

#### *Personnel Records Subcommittee--*

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<sup>1</sup> All members of the Council were present at the meeting (Houck, Iaquinto, Treadway, Fifer, Landon, Whitehurst, Selph, Jones, Schliessmann, Tavenner, Dooley, and Hamlett).

<sup>2</sup> Delegate Iaquinto was appointed by the Speaker of the House of Delegates; Mr. Tavenner as director of the Division of Legislative Services serves as an ex officio member of the Council with voting privileges; Ms. Dooley was appointed by the Senate Committee on Rules as the local government representative; and Ms. Hamlett was appointed by the Governor as a citizen/state employee representative.

<sup>3</sup> Subcommittee members Fifer (Chair), Schliessman, Selph, and Treadway were present (all members).

Ed Jones, chair of the Personnel Records Subcommittee advised the Council that the Subcommittee will hold its first meeting immediately following the Council meeting.

*Disposition of HB 1935 (Ware, O.)<sup>4</sup>*

The Council next turned its attention to HB 1935--legal notices; use of websites, radio and television, etc. This bill was referred to the Council by the 2011 Session of the General Assembly and at the last Council meeting, Roger Wiley told the Council that while the issue of publication of legal notices was very important to local governments and citizens, it was his belief that it was not a FOIA issue and therefore not within the purview of the Council. Staff suggested that the Council, by letter, request the respective chairs of the Senate Committee on Local Government and the House Committee on Counties, Cities, and Towns, to create an ad hoc joint subcommittee of both committees to examine the issues raised by HB 1935. By consensus, the Council agreed to this suggestion and directed staff to prepare the appropriate letters.

The next item of business was public comment. There being none offered, the Council was briefed by staff on the upcoming 2011 FOIA Workshops. The statewide workshops will be held in 7 locations, including two in Richmond. Senator Houck reminded all in attendance about the Council's annual legislative preview scheduled for the November 14, 2011 in Richmond and strongly encouraged any interested party to bring their legislative proposals (conceptual in nature or in draft form) before the Council so that any necessary work on the proposal, including preparing compromise language, may be accomplished before the press of the 2012 General Assembly Session. The purpose of the annual legislative preview is to air FOIA and related access issues before the Council and other interested parties, which issues will or may be the subject of legislation in the upcoming Session of the General Assembly. There being no further business, the Council adjourned.

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<sup>4</sup> **HB 1935 Legal notices.** Allows localities to meet certain notice requirements by utilizing their web sites, radio or television rather than a newspaper of general circulation.