

Observations Regarding § 2.2-3704 (J)

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The code section (underlining added):

§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges.

...J. Every public body of state government shall compile, and annually update, an index of computer databases that contains at a minimum those databases created by them on or after July 1, 1997. "Computer database" means a structured collection of data or records residing in a computer. Such index shall be a public record and shall include, at a minimum, the following information with respect to each database listed therein: a list of data fields, a description of the format or record layout, the date last updated, a list of any data fields to which public access is restricted, a description of each format in which the database can be copied or reproduced using the public body's computer facilities, and a schedule of fees for the production of copies in each available form. The form, context, language, and guidelines for the indices and the databases to be indexed shall be developed by the Virginia Information Technologies Agency in consultation with the Librarian of Virginia and the State Archivist. The public body shall not be required to disclose its software security, including passwords.

(1968, c. 479, § 2.1-342; 1973, c. 461; 1974, c. 332; 1975, cc. 307, 312; 1976, cc. 640, 709; 1977, c. 677; 1978, c. 810; 1979, cc. 682, 684, 686, 689; 1980, cc. 678, 754; 1981, cc. 456, 464, 466, 589; 1982, cc. 225, 449, 452, 560, 635; 1983, cc. 372, 462, 607; 1984, cc. 85, 395, 433, 513, 532; 1985, cc. 81, 155, 502, 618; 1986, cc. 273, 291, 383, 469, 592; 1987, cc. 401, 491, 581; 1988, cc. 39, 151, 395, 411, 891, 902; 1989, cc. 56, 358, 478; 1990, cc. 217, 538, 721, 819, 968; 1991, cc. 213, 561; 1992, cc. 40, 150, 167, 200, 203, 207, 593, 612; 1993, cc. 205, 270, 296, 537, 552, 638, 750, 883; 1994, cc. 485, 532, 606, 839, 853, 918; 1995, cc. 299, 362, 499, 562, 638, 722, 812, 837; 1996, cc. 168, 469, 589, 599, 783, 786, 794, 855, 862, 902, 905, 1001, 1046; 1997, cc. 198, 295, 439, 567, 636, 641, 777, 782, 785, 838, 861; 1998, cc. 427, 891; 1999, cc. 438, 703, 726; 2001, c. 844; 2002, cc. 715, 830; 2003, cc. 275, 981, 1021; 2007, c. 439.)

Observations

1. Large and Growing Numbers of Databases Exist

The Department of Game and Inland Fisheries (DGIF) is an agency of approximately 450 employees located statewide.

In our annual attempt to comply with §2.2-3704(J) this year, our Information Management Systems (IM) Section updated index forms on 62 databases and sent them to the Library of Virginia, where the forms are now accessible online.

However, after submitting this year's update, I determined that we really hadn't captured and reported every database in DGIF. In fact there probably are quite a few more, and possibly many more, that we're unaware of.

Our IM Section was defining a "database" as meaning a centralized DGIF database, used or usable by 10 or more DGIF staff. I believe that 10 users is also the limit for the number of users for a database created with the commercial and widely available personal database application MICROSOFT ACCESS. And I'm advised that 10 users is also a standard criteria that VITA uses, possibly for their involvement in building and managing state agency databases (although I do not know that for certain).

Our first concern about §2.2-3704(J) is that it appears to apply to all (post 1997) databases within an agency, regardless of whether they are centralized databases built and managed by or for the agency's IM Section, or whether they are created and used by individual employees scattered throughout the state using Microsoft Access or another commercial database application.

If every database of every type that exists anywhere within an agency must annually be tracked down and reported on, this potentially is a large number of databases and entails a large amount of reporting. The DGIF website manager advises me that the process of building and maintaining an agency website usually entails the use or creation of a number of blocks of data that also fit the broadest definition of a "database." As §2.2-3704(J) is written, these almost certainly qualify for reporting as well.

In addition, Microsoft Access is now a very widely available software application. It is frequently included in the Microsoft's "Office" package that is available to many if not most state employees. Increasing numbers of younger employees are entering the workforce out of college already having skills creating and working with their own databases. It is becoming a more common skill, and Access is available almost everywhere. For those with such skills, creating a database usually is still more complicated than creating a spreadsheet, but the difference is not tremendous. Databases no longer necessarily require or involve centralization, multiple users, or highly specialized Information Management skills.

For example, DGIF's nearly 100 wildlife biologists are all scientists holding either masters degrees or doctorates. They perform research constantly. Some store their data in spreadsheets, but any number keep their data in databases. These are neither centralized nor centrally reported, much like how spreadsheets are not centrally reported.

2. Data Fields Are Much More Numerous

A data field is the category for a single string of alpha or numeric information, like the column names on a spreadsheet. When you enter your name in anything electronic usually that's three data fields: first name, middle initial, last name.

Agencies have a lot of databases. They have very many more data fields. Data fields have proliferated at a rate that is a multiple of the increase in databases.

DGIF may have 5000, or 10,000, or more data fields. At the present time we don't know. It would take, first, IM Section, and beyond that, many employees throughout the agency, a very considerable amount of time to list and report them all.

3. Reporting of Data Fields for Restriction from Public Access Requires Prior Analysis of Each Data Field

There are perhaps 40 pages of FOIA exclusions, and more than 30 extra-FOIA exclusions. To not just list every data field, but to list it as accessible or not accessible, and to do so responsibly would require agencies to analyze each of their several thousand data fields relative to the many exclusions from FOIA.

4. Schedules of Fees Are Extremely Difficult to Create So As to Comply with FOIA

§2.2-3704(F), which governs allowable charges, renders the creation of schedules of uniform fees for any type of records, data bases or otherwise, extremely impractical.

Suggestion

§2.2-3704(J) may need amendment in light of all of the above. Possibly the section should be reviewed for reasonableness and practicality by information management specialists.

Database Index Subcommittee Meeting Notice

The Database Index Subcommittee was formed to examine the provisions of subsection J of § 2.2-3704, which requires state public bodies to compile an index of their computer databases. There are concerns that some of the specific requirements may be confusing, and that there may be compliance difficulties as a result. The Subcommittee will work with representatives of the Virginia Information Technologies Agency (VITA) and the Library of Virginia, as these bodies are charged by the statute to produce guidelines regarding implementation of the database index requirement. The Subcommittee consists of Council members Landon (Chair), Axselle, Spencer, and Treadway.

Meetings Scheduled

Monday, October 6, 2008 - 2:30 p.m.

General Assembly Building, House Room D