



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

Delegate James M. LeMunyon, Chair
Senator Richard H. Stuart, Vice-Chair
foiacouncil@dls.virginia.gov

Maria J.K. Everett, Esq., Executive Director/ Senior Attorney
Alan Gernhardt, Esq., Senior Attorney
Jessica L. Budd, Esq., Attorney

General Assembly Building ~ 201 North 9th Street, Second Floor ~ Richmond, Virginia 23219
804-225-3056 ~ (Toll Free) 1-866-448-4100 ~ (Fax) 804-371-0169 ~ <http://foiacouncil.dls.virginia.gov>



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL
Tuesday, March 7, 2017 - 1:30 p.m.
House Room C, General Assembly Building

SUGGESTED AGENDA

ANNOTATED

- 1. Call to Order, introduction of members.** *Welcome to newest Council member Cullen Seltzer, Esq., appointed by the Governor for a term of four years.*
- 2. Recap of FOIA and Related Access Bills from 2017 Session of General Assembly.**
- 3. Bills referred to Council for study by 2017 Session of General Assembly:**
 - HB 2316, Marshall, D.W.; Tobacco Region Revitalization Commission; meetings by teleconference.¹
- 4. Issues continued from 2017 for further study:**
 - Proprietary records and trade secrets draft proposed by the Virginia Press Association. *Note: The Record Subcommittee recommended that study of § 2.2-3705.6 (proprietary record exclusions) be carried over to 2017 as efforts were unsuccessful in reaching consensus to create a general exemption for trade secrets and proprietary records.*
 - Review of FOIA in light of advancement in technology

¹ HG 2316 provides that the remote locations from which additional members of the Commission participate in a Commission meeting that is conducted through electronic communication means shall not be required to be open to the public.

- FOIA policy statement. *At the beginning of the HJR 96 study, staff suggested that FOIA be amended to include a policy statement to the effect that: "Any public body procuring any computer system, equipment or software, shall ensure that the proposed system, equipment or software is capable of producing public records in accordance with this chapter." It is believed that inclusion in FOIA as part of its policy statement would enhance compliance with the redaction rule of FOIA.*
 - Definitions
 - Vendor proprietary software” is exempt from release under FOIA (2.2-3705.1(6)), necessity to continue to include the exemption for software “developed by or for a state agency.....” in 2.2-3705.1(7)? (From Chairman's list of FOIA issues)
 - Website posting of notice and minutes (§§ 2.2-3707 and 2.2-3707.1)
 - Texting among members during public meetings
- Access to law-enforcement records (§ 2.2-3706)
- Personnel records (§ 2.2-3705.1)
- Reorganization of FOIA. *Examine the organizational structure of FOIA and make recommendations to improve the readability and clarity.*
 - Definitions

5. Study Plan; appointment of Subcommittee.

6. Other Business.

- **HB 1971 Massie, Virginia Freedom of Information Act; record and meeting exclusions for multidisciplinary child abuse teams.** Excludes the records of a multidisciplinary team as they relate to individual child abuse or neglect cases or sex offenses involving a child from mandatory disclosure under the Virginia Freedom of Information Act. The bill also provides an exemption from open meeting requirements to such teams and sexual assault response teams. *Note: The issue is whether these bodies should be subject to FOIA much like family assessment and planning teams established pursuant to § 2.2-5207, which are exempt from all provisions of FOIA.*

7. Public Comment.

8. Discussion.

9. Set future meeting dates in 2017.

10. Adjournment.

Council Members

Delegate James M. LeMunyon, Chair
Sandra G. Treadway
Stephanie Hamlett
Mark Vucci
Marisa Porto
William "Billy" Coleburn

Senator Richard H. Stuart, Vice-Chair
Ed Jones
Kathleen Dooley
Shawri King-Casey
Michael Stern
Cullen Seltzer

Staff

Maria J.K. Everett, Executive Director and Senior Attorney
Alan Gernhardt, Senior Attorney
Jessica L. Budd, Staff Attorney

The FOIA Council's web site is: [http:// foiacouncil.dls.virginia.gov](http://foiacouncil.dls.virginia.gov). To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by (i) e-mail to staff prior to meetings or (ii) diskette furnished to staff at meetings. Presenters are also requested to bring 20 copies of their remarks or handouts to meetings. These copies will be provided to FOIA Council members and the public.
E-mail: foiacouncil@dls.virginia.gov.