

Virginia Freedom of Information Advisory Council

January 13, 2009

2:00 PM

Richmond, Virginia

The Freedom of Information Advisory Council (the Council) held a special meeting to vote on whether to recommend SB 529 (Houck) to the General Assembly for its 2009 Session.¹ The Personal Identifying Information Subcommittee (PII Subcommittee) voted unanimously to re-recommend SB 529 from the 2008 Session, but consideration of the bill was inadvertently omitted from the December 1, 2008 meeting of the FOIA Council.

More specifically, SB 529 was a FOIA Council recommendation to the 2008 General Assembly concerning access to concealed handgun permit holders. The PII Subcommittee voted again to recommend SB 529 as introduced in 2008 because of its belief that it reflects the proper balance between privacy and public access. The draft legislation would require the Department of State Police (DSP) to withhold from public disclosure permittee information submitted to the DSP for purposes of entry into the Virginia Criminal Information Network, with a limited exception for access by law-enforcement agencies. Records of the names and addresses of holders of concealed weapons permits issued by the DSP, however, to out-of-state persons would be publicly available from DSP. Permittee records will still be open to the public at each circuit court where the permits are issued.

The recommendation of the subcommittee served as a motion for the Council to recommend the bill. After the motion was seconded, Chairman Griffith opened the floor to discussion by the Council and to public comment. Phillip Van Cleave, on behalf of the Virginia Citizens Defense League (VCDL), stated that VCDL opposed the bill because it leaves access to concealed carry permit information open at the circuit courts. Some permit holders may be endangered by the release of their personal information, for example, those who have been victims of crimes such as stalking or domestic violence and may continue to be threatened by the perpetrators. Mr. Van Cleave noted that the Free Lance-Star newspaper each month publishes the list of new permit holders obtained from the local circuit court, and could continue to do so if this bill becomes law. Instead of this bill, VCDL supports closing all points of access to lists of concealed carry permit holders.

Council member Craig Fifer then spoke in opposition to the bill, for the same reasons he opposed the bill last year. He stated that he believes the records should be open both at the state police level and at the courts. Additionally, he stated that it served no purpose to eliminate access to the statewide list from DSP when other organizations could and would compile an equivalent statewide list from information available at the courts and then publish it. Recognizing that some permit holders may be endangered under certain circumstances, Mr. Fifer further observed that since each permit application is already

¹ All Council members were present except Dr. Treadway and Mr. Landon. By designation of the Attorney General, Stephanie Hamlett attended today's meeting in place of Mr. Malveaux. Mr. Fifer participated in the meeting from Alexandria via telephone pursuant to § 2.2-3708.1, due to a temporary medical condition.

inspected individually by a judge or clerk of court, it should be possible to provide individual protection for those that need it while still allowing access to other permit holders' information. Finally, Mr. Fifer pointed out that as a matter of policy, the Council generally does not support bills that would apply wide restrictions on access to an entire category of records, nor does the Council usually recommend bills that appear in sections of the law outside FOIA itself.

Council member Miller then inquired about prior votes on the bill. Staff related that the bill had been recommended unanimously to the Council by the PII Subcommittee² on December 3, 2007. At its meeting December 3, 2007, the Council recommended the bill to the 2008 Session of the General Assembly by vote of 10 to 1.³ At its November 12, 2008 meeting, the PII Subcommittee again recommended the bill to the Council by unanimous vote.⁴ There was no further discussion. The Council then voted 9 to 1 in favor of the motion to recommend the bill to the General Assembly for its 2009 Session.⁵

Other Business

There was no other business brought before the Council.

Public Comment

There was no additional public comment.

The Honorable H. Morgan Griffith, *Chair*
Maria J.K. Everett, *Executive Director*

² Senator Houck, Delegate Griffith, and subcommittee members Edwards, Malveaux, Spencer and Treadway voted in favor of recommending the bill.

³ Senator Houck, Delegate Griffith, and Council members Axselle, Edwards, Malveaux, Miller, Whitehurst, Wiley, Spencer, and Treadway all voted in favor of recommending the bill. Council member Fifer voted against it.

⁴ Senator Houck, Delegate Griffith, and subcommittee members Spencer, Treadway, Whitehurst, and Hamlett voted in favor of recommending the bill.

⁵ Mr. Fifer voted against the recommendation; all of the other Council members present voted in favor of recommending the bill.