



*Personal Identifying Information Subcommittee
of the
Virginia Freedom of Information
Advisory Council*

Monday, June 8, 2009
1:00 p.m. Speaker's Conference Room
Sixth Floor General Assembly Building

SUGGESTED AGENDA

1. Call to Order and introduction of members.
2. Review of bills referred by the 2009 Session for further study by the FOIA Council:
 - **SB 880 (Stuart); Department of Game and Inland Fisheries; disclosure of official records; exceptions.** Provides that records of the Department shall be subject to the disclosure provisions of the Freedom of Information Act, except that personal information, as defined in § 2.2-3801, of individual applicants for or holders of any hunting, fishing, boating, or trapping license issued by an agent of the Department shall be withheld from public disclosure, provided that such individuals have requested that the Department not disclose such information. However, statistical summaries, abstracts, or other records containing information in an aggregate form that does not identify individual applicants or licensees shall be disclosed. The bill provides, however, that such information may be released (i) in accordance with a proper judicial order, (ii) to any law-enforcement agency, officer, or authorized agent thereof acting in the performance of official law-enforcement duties, or (iii) to any person who is the subject of the record.
 - **HB 2471 (Hugo); Freedom of Information Act; salary records of teachers.** Provides that the disclosure of the names of individual teachers is not required under FOIA in response to a request for the official salary or rate of pay of employees of a local school board.

- HB 2630 (Crockett-Stark); Law-Enforcement Officers' Privacy Protection Act.** Allows a law-enforcement officer to request that personal information about the officer be withheld from disclosure on public records. For purposes of the Act, "personal information" includes the officer's name, social security number, address, phone number, and any other information that could be used to physically locate the officer. *NOTE: You will recall that Delegate Crockett-Stark was present at the April 27, 2009 FOIA Council meeting to discuss HB 2630. She indicated that there is a similar law in place in Ohio that was enacted because a family member of a law enforcement officer was murdered after personal information about the officer was made available. She stated that her sheriff had requested a similar law in Virginia. Staff noted that in Virginia personal information about public employees is exempt from FOIA; however, real property assessment records and court records are open to the public as a matter of law. The Council noted that there are two competing policies at work in this instance-- privacy versus a community's awareness of the identity of its officers. The Council asked Delegate Crockett-Stark to have her contact call Delegate Griffith to identify the specific issue of concern so that the scope of the bill could be narrowed to address the issue.*
- SB 1332 (Cuccinelli); Private entities operating, managing, or supervising any portion of the state highway system.** Provides that a private entity that operates, manages, or supervises any portion of the state highway system and receives funding from the Commonwealth or any of its political subdivisions shall be considered a public body for purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) of the Code of Virginia as it relates to that portion of the private entity's business operations responsible for operating, managing, or supervising the portion of the state highway system. *NOTE: At the April 27, 2009 FOIA Council meeting, members of the Council agreed that the issue behind this bill was unclear. Delegate Griffith directed staff to re-invite Senator Cuccinelli to address the Council at its next meeting. Therefore no action is required by the Subcommittee at this time.*

3. Discussion.

4. Other Business.

- Social Security Numbers and the Government Data Collection and Dissemination Practices Act (GDCDPA):

 - Collection of SSNs: The Council has already indicated its intent to continue studying this area, which will coincide with the analysis of the results of last year's survey regarding collection and use of SSNs. This year's study will focus on identifying and eliminating the unnecessary collection of SSNs by government. It is hoped that by limiting collection in the first instance, the need for additional protections to be added later will be reduced or eliminated. In addition, because the SSN survey produced an unexpectedly large volume of responses that necessitated additional time for analysis, SB 1318/HB 2426 were passed in 2009 as recommendations of the FOIA Council to delay until 2010 the implementation date prohibiting the

collection of an individual's social security number unless collection of such number is (i) authorized or required by state or federal law and (ii) essential for the performance of that agency's duties. Note that in light of HB 2427 (May), establishing the Protection of Social Security Numbers Act, as discussed below, the Council needs to decide what further action, if any, needs to be taken.

- Disclosure of SSNs: HB 2427 (May) establishes the Protection of Social Security Numbers Act (the Act), which will become effective July 1, 2009. In brief, the Act exempts from FOIA the first five digits of SSNs except under certain limited circumstances, and provides penalties for improper disclosure. The final four digits of SSNs found in public records will remain open to public disclosure under FOIA. In past meetings the Council has debated the merits of this and other protective schemes that would limit the disclosure of SSNs. Again, the Act's passage in 2009 raises the question of whether any further action regarding disclosure of SSNs is necessary at this time, and if so, what form should that action take.
- OAG recommended amendments to SB 1318/HB 2426; staff report. You will recall that at the April 27, 2009 FOIA Council meeting, the Council directed staff to meet with the OAG to review the language of the amendment made by the Governor to the GDCDPA to ensure that it was not in need of additional "wordsmithing" for clarity. This amendment was not part of the deliberations of the FOIA Council and JCOTS.

5. Public Comment.

6. Set future meeting dates for PII Subcommittee and for any joint meeting of PII and JCOTS Subcommittees.

7. Adjournment.

Subcommittee Members

Senator Houck, Chair	Delegate Griffith
Mary Yancey Spencer	Sandra Treadway
Roger Wiley	Courtney Malveaux
George Whitehurst	
<i>Staff: Maria Everett, Alan Gernhardt</i>	

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