



Date: August 21, 2019
To: Virginia Freedom of Information Act (FOIA) Advisory Council
HJ 628 - Phishing Study Subcommittee
From: Virginia Press Association (VPA)
Re: Concerns with Phishing Recommendations

The Virginia Press Association (VPA) has closely followed the Phishing Study Subcommittee and the recommendations submitted by Delegate Heretick on behalf of the City of Portsmouth.

We have strong concerns with the recommendations, and we support the Virginia Coalition for Open Government's (VCOG) submitted comments. Below are our initial comments. We look forward to participating in this process as the FOIA Advisory Council studies this issue.

- The VPA disagrees with the premise that FOIA requests significantly enable or contribute to phishing attacks.
- As VCOG points out, much of the public employee information supposedly needed to launch a phishing attack is available or easily obtained without a FOIA request.
- Many FOIA requests are submitted by reporters. FOIA is an integral and foundational part of freedom of the press—as well as open, transparent and accountable government.
- Freedom of the press, and the government accountability that freedom of the press helps ensure, are in the public interest.
- Reporters often have strong working relationships with FOIA officers and other local government staff. These reporters are known, trusted and respected professionals in their local communities. Restrictions on FOIA like the ones recommended by Portsmouth would place undue burdens on Virginia citizens, including reporters whose knowledge of the FOIA process helps facilitate the flow of information from government to the press, with the ultimate goal of an informed and engaged public.
- The recommendation to exempt government from liability when it gives information to law enforcement about FOIA requests is also particularly troubling. As VCOG aptly states in its submitted comments, “it will chill to the very bones anyone – citizen, news media or company – who asks for any records whatsoever.”
- Government should never take any action that even hints at intimidation of the media or anyone seeking information about their government.
- We would agree to further study of this issue, with the understanding that the foundation of FOIA relies on the presumption that government and its records are open, unless otherwise stipulated, and accessible with only reasonable and justifiable conditions.
- We also concur with VCOG's recommended solutions.

Please contact VPA lobbyists Mark Hickman (mark@commonwealthstrategy.net) or Aimee Seibert (aimee@commonwealthstrategy.net) with any questions.

Thank you.