

From: **Theodore Marcus** <tcmarcus@live.com>
Date: Wed, Dec 4, 2024 at 8:15 AM
Subject: Fw: VFOIA
To: Alan Gernhardt/DLS <agernhardt@dls.virginia.gov>
Cc: Alisa Padden <apadden@vacourts.gov>

Good morning, Mr. Gernhardt:

You received an email yesterday afternoon from Ms. Padden, <https://foiacouncil.dls.virginia.gov/AlisaPaddenEmail.pdf>, of the Virginia Supreme Court (*note Ms. Padden did not copy me on that email, which was an unfortunate choice). Other than to say that the email is a sad, 12th hour 'cya' effort, I will not comment in depth on it, or the email it attached or the careful use of suggestive language (e.g., "your request is voluminous", "we have not received any such letter as suggested", etc.). That said, her response is of a piece with this entire experience and further negative commentary, in itself, of the extraordinary blockage and runaround imposed upon ordinary citizens seeking transparency via VFOIA.

Finally, with respect to Ms. Padden's claim that the "Benchbook Committee is a private entity" etc., I would note the following from the cover/transmittal memo for the benchbook, as linked by Ms. Padden herself:

The Benchbook Committee of the Association of District Court Judges of Virginia has created the material for the publication. The BENCH BOOK is distributed by the Department of Legal Research in the Office of the Executive Secretary. For additional copies, the BENCHBOOK may be accessed on Virginia's Judicial System website at districtcourtbencbook.pdf (vacourts.gov) If you have any questions or comments, please call (804) 786-6658.

This language contradicts the essence of Ms. Padden's argument (which is all it is, frankly), against ownership of these issues at the Virginia Supreme Court's door. Its imprimatur, if not its desktop publisher, is the point. The Virginia Supreme Court "distributes" the benchbook; it offers copies at its official website; and it provides a point of contact for "questions or comments" using its own offices' phone number.

Finally, with respect to Ms. Padden's stated "suggestion" that I contact Judge Woolard, etc., and offering Ms. Sutton's contact info in that regard, please note that no letter to Judge Woolard should have been necessary given my emails about this issue *were directed to Ms. Sutton in the first instance.*

Ms. Padden's email, thus, undermines her presumed cause (i.e., "not our issue and, in any event, Mr. Marcus is not acting in good faith") and, instead, supports the thrust of my presentation to the Council: those charged with carrying out the mission of the VFOIA when called upon to do so are hostile to that mission, and brazenly so.

Thank you,

Theodore C. Marcus, Esq. (*Not Admitted in Virginia)