

GOOCHLAND: Under FOIA's •2.2-3705.1(10), the government can withhold from release the email addresses of citizens who have signed up for government email alerts. There's a catch, though: the exemption is only available when the citizen "has requested that the public body not disclose such information." When the provision was drafted, it was understood that this meant citizens could "opt out" when they signed up for the email alerts. Local governments in particular made use of the exemption by making the opt-out option standard on all their online sign-up forms. In Goochland, however, the school district asked its subscribers if they wanted to opt out after they received a FOIA request for their names and addresses. In a subsequent lawsuit, Judge Timothy Sanner okayed the action, invoking the Government Data Collection and Dissemination Practices Act (which doesn't really apply to FOIA requests) and rejecting the plaintiffs' argument that the district violated FOIA by offering the opt-out option after the request instead of before.

NORFOLK: The Virginia Port Authority insisted that its two-day "retreat" was not subject to FOIA. "There will be no votes or action items," the authority's spokesman said, and all materials are exempt from disclosure. FOIA's open-meeting provisions do not, however, depend on whether votes will be taken or whether materials are exempt from disclosure. Even if the closed session is the only item on the agenda, the meeting first has to be convened in the open. An op-ed in The Hampton Roads Business Journal complained that the port's action "exemplifies the worst type of disdain for the Hampton Roads public."

NORFOLK: Still smarting from revelations that The Tide light-rail project was woefully over-budget, Philip Shucet, the CEO of the The Tide's parent agency, Hampton Roads Transit, posted nearly 700 documents on the agency's website. Shucet commented on the more than 50,000 pages of financial reports, budgets, audits, salaries, federal reviews, operational analyses and cost breakdowns that it was the right thing to do, "regardless of the past history."

ORANGE COUNTY: When asked for records relating to how much Orange County would be paying its part-time attorney, board chairman Lee Frame said of the contract, "It's not required to be released, so we're not going to release it." FOIA, however, does say that employment contracts must be released.

PITTSYLVANIA COUNTY: Two county citizens were taken to task by a member of the board of supervisors for sitting in a witness room adjoining the courtroom where the board was meeting in closed session. The supervisor worried about the board members' safety and complained that the citizens came to meetings just to "pick at" the board. In early December, the board

voted unanimously to approve a new courtroom security policy that requires the bailiff to clear all citizens and staff out of the courtroom, including adjoining witness rooms, during closed meetings. Citizens will have to wait in a hallway during the closed meeting. The bailiff must make sure that no recording devices or cell phones are left in the courtroom. Citizens will also need to pass through metal detectors on their way to the meetings.

**RICHMOND:** The Governor's Government Reform and Restructuring Commission caught some open-government flak after its Aug. 31 meeting when it came to light that work groups had been meeting without notice to the public. The governor's staff said the work groups did not have to comply with FOIA because they were entities appointed by the governor. The issue quickly heated up politically. The governor's office notified the Democratic Party of Virginia that it would cost \$1,622.58 to produce records related to the work group meetings. The governor's office said it was one of the largest FOIA requests it had received.

**RICHMOND:** In an Aug. 5 opinion to the Goochland County Electoral Board secretary, Attorney General Ken Cuccinelli ruled that two members of a three-member electoral board could not talk to each other on the phone about board business without following FOIA's procedures on public meetings.

**STAUNTON:** The News Leader took the unusual step of publishing a front-page editorial criticizing various actions of the Staunton School Board, including its closed-door meeting about bookkeeper practices. The News Leader noted that while a meeting to discuss an employee's performance was permissible, a meeting to discuss overall practices for that employee's position was not. The board released 13 pages of notes from the meeting, though many passages were blacked out, and in a letter defended its decision to close the meeting.

**VIRGINIA:** Danville's website was named the fifth-best city portal and Roanoke County was named the fifth-best county portal in a national competition for the 2011 Best of the Web and Digital Government Achievement Awards, given by the Center for Digital Government. Fourteen Virginia localities were cited in the Top 10 of various population sizes for best "digital cities" and best "digital counties."