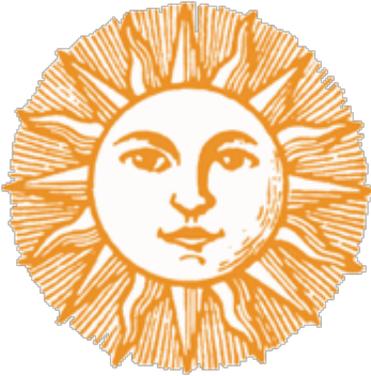


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# The Sunshine Report: *Online*

## Transparency news from the Virginia Coalition for Open Government

### May 2013

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#### Coalition News

#### Recently on VCOG Blog

- [I'm mad as heck about the Supreme Court's FOIA ruling](#)

#### Records management and FOIA

VCOG will host its fifth workshop for government employees on records management and FOIA. The three-hour session is scheduled for May 30 from 9:00 to 12:00, with presentations from Anita Vannucci (records analyst with the Library of Virginia), Maria Everett (director of the FOIA Council) and Craig Fifer (deputy communications director for Alexandria, as well as VCOG's president). The event is being held at the Library of Virginia and costs \$15 per person to attend. [Go to our website](#) to download a paper registration copy or to register online.

#### VCOG website & mobile-friendly redesign

Greetings, Friend of VCOG!

#### U.S. Supreme Court upholds Virginia's citizens-only FOIA limitation

In a unanimous decision issued April 29, the U.S. Supreme Court said Virginia can continue to deny FOIA requests from non-state residents without violating the constitution.

The opinion, authored by Justice Samuel Alito, said the limitation did not violate the Privileges & Immunities Clause, which generally protects citizens of one state from certain kinds of discrimination in another state.



Along the way, the high court called FOIA a "service," said the state's treatment of out-of-state residents was justified since they didn't "foot the bill" of maintaining the records and called tax assessment records "less essential" than other real estate records.

The Attorney General hailed the decision as one supporting Virginia taxpayers, while access advocates, and media interests roundly criticized the opinion if not the ultimate ruling (which many expected).

VCOG's Megan Rhyme said the opinion gave short shrift to the way in which citizens use records to help make sense of their work and the impact of government on it.

Go to the VCOG website for a [round-up of news stories](#)



Thanks to a grant from the National FOI Coalition, VCOG is redesigning its website, replacing it with a much cleaner and pared down look that will adapt easily to multiple smart phone

and tablet displays. The site, which will feature past and future Transparency News issues, will be live by the month's end. At left is a screen shot of what you can expect.

## FOIA car magnets

VCOG FOIA magnets are available for \$5 [on VCOG's website](#). It's also easy to add a VCOG membership to your purchase. Once you have your magnet in place, post a picture of it to [VCOG's Facebook page](#), or attach it to a tweet with the hashtag #vaFOIA.

## Stay up to date on access

Sign up for VCOG's [daily listserv on access and First Amendment news](#) from Virginia and across the country. It's free!

For a steady stream of access-related stories and additional commentary and information, join the more than 400 people who are following [VCOG on Twitter](#). The latest six posts are also carried on [our website](#).

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## FOIA Council updates

[FOIA Council opinion AO-01-13](#): Generally, records submitted by a private company to a state agency as required by regulation are public records subject to FOIA. Marking such records proprietary and confidential does not, by itself, make them exempt from mandatory disclosure; records are only exempt if there is a specific provision of law that allows them to be withheld.

[FOIA Council opinion AO-02-13](#): FOIA is silent regarding the logistics of holding a public meeting. In a situation where the meeting room lacks the capacity to accommodate all those who wish to attend, the best practice is to move to a larger venue and use technology to increase public access, when possible.

Additionally, two subcommittees of the FOIA Council will both meet on Monday, May 20, 2013, in the Fifth Floor East Conference Room of the General Assembly Building, 201 N. 9th Street, Richmond, Virginia 23219.

## The Rights and Responsibilities

[and editorials](#) on the decision, the [full-text of the opinion](#) and [Rhyne's commentary](#).

## Huguely camera case headed to Virginia Supreme Court

The Virginia Supreme Court will consider a case brought by WVIR-29, an NBC television affiliate in Charlottesville, to clarify just how much discretion a trial judge has in excluding cameras at trial.

The case began when Circuit Judge Edward L. Hogshire denied the station's request to bring cameras inside the courtroom to cover the sentencing of George Huguely V, the former UVa lacrosse player who was convicted last year of murdering his ex-girlfriend.

As spelled out in an amicus brief filed by the Virginia Association of Broadcasters (a VCOG member), the statute governing camera access says in one place that permitting cameras is "solely in [the] discretion" of the trial court, while there is also support for the notion that cameras can be excluded only for "good cause."

A ruling in the case will hopefully clarify whether it is one or the other, or at least will explain how the two sections work together.

The case is *Virginia Broadcasting Corp. v. Commonwealth*, No. 122013. For a more detailed look at the case, read the [Virginia Lawyers Weekly](#) blog post on it.

## Open government in the news

After winning a court case in March about evidence and exhibits wrongly withheld from it, the *Daily Press* heard from another judge that documents in a federal fraud case would only be available if the paper [paid to "keep the courthouse open."](#) including paying the salaries of security and clerk's office personnel....

A Norfolk city attorney under consideration for a judgeship finalized her divorce just days before the General Assembly was to interview her. The problem was that the divorce decree [did not appear on the docket and the file was sealed](#). The candidate voluntarily released a copy of the decree to the *Virginian-Pilot*....A Newport News City Councilwoman is urging a local Marriott hotel, which operates the city's conference center, to [open its books](#) with regards to how the taxpayer-subsidized center is managed....The Fauquier County School Board [refused to identify the individual](#) it had just voted on to take over as principal at one of the area's four high schools. The FOIA Council's Alan Gernhardt said the vote did not "reasonably identify" the subject matter of what they were voting on as required by FOIA, though board members insisted their attorney okayed it....The governor denied Watchdog.org Virginia Bureau's request for his itinerary

**Subcommittee** will meet at 10:30 to study HB 2125 (Keam - to open FOIA to non-Virginia residents), HB 2321 (Surovell - to subject the State Corporation Commission to FOIA), and SB 1371 (Stuart - to create a remedy for governments sued by someone who has harassed them by FOIA). The Subcommittee consists of Council members Stephanie Hamlett, Ed Jones, Frosty Landon, James Schliessmann, and Bob Tavenner, as well as industry representative David Ogburn.

**The Electronic Meetings Subcommittee** will meet at 1:30 to study HB 2032 (May - to allow regional bodies to meet by the same electronic means as state agencies) and SB 889 (Black - to allow school boards to meet by the same electronic means as state agencies). The Subcommittee consists of Council members Kathleen Dooley, Stephanie Hamlett, John Selph, and George Whitehurst.

during his 16-day trip to California and Asia. During a chat with reporters, however, he did say he was meeting with famed Hollywood director Steven Spielberg. Later, the governor's staff released records showing [the estimated \\$332,000 the trip would cost](#)....Richmond's mayor dropped his plan to place all of the city's public information functions, including those of the police department, [under the control of his press secretary](#). Shortly thereafter, the police department announced it had [recovered a missing flash](#) drive full of sensitive police information.

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and are 100% tax deductible.**

*Our IRS W9 form [can be found here](#),  
and feel free to ask for a copy of our IRS 990 and our FY11-12 financial review.*

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