

Right to Know Advisory Committee  
Compliance and Resources Subcommittee  
November 6, 2006  
(Draft) Meeting Summary

Room 438, State House, Augusta

Present:

Ted Glessner, Chair  
Bob Devlin  
Karla Black  
Linda Pistner  
Shenna Bellows (participated by speaker phone)

Absent:

Mal Leary

Staff:

Colleen McCarthy Reid  
Peggy Reinsch

The Subcommittee members reviewed the responsibilities assigned to the Subcommittee, and discussed each one separately.

A. Shall provide guidance in ensuring access to public records and proceedings and help to establish an effective process to address general compliance issues and respond to requests for interpretation and clarification of the laws;

The Subcommittee discussed the current practices of the Governor's Office and Attorney General's Office to address complaints related to FOA. Both Karla Black and Linda Pistner indicated that expertise in FOA issues has been developed and often complaints are addressed effectively, but that some may wonder about neutrality and objectivity. The subcommittee agreed that compliance with FOA overlaps with training and education, which is the focus of another subcommittee's work. It was noted that the Legislative subcommittee has agreed to propose a legislative recommendation to create and fund a Freedom of Access Ombudsman position to the advisory committee. In addition to training and education, the subcommittee felt that an ombudsman position could have an active role in addressing compliance issues and providing interpretation and clarification of the Freedom of Access laws. The subcommittee agreed to support the recommendation for an ombudsman.

G. May make recommendations for changes in the statutes to improve the laws and may make recommendations to the Governor, the Legislature, the Chief Justice of the Supreme Judicial Court and local and regional governmental entities with regard to best practices in providing the public access to records and proceedings and to maintain the

integrity of the freedom of access laws and their underlying principles. The joint standing committee of the Legislature having jurisdiction over judiciary matters may report out legislation based on the advisory committee's recommendations; and

The subcommittee agreed that it would try to be proactive to determine whether changes in statutes should be recommended to address practical problems with compliance. The subcommittee also recognized that policies could be recommended for best practices without changes in the statute. They discussed that there are no consistent recommendations and best practices for compliance with FOA that are shared among the Executive and Judicial branch and local governments. Karla Black noted that state agencies often face practical problems with compliance and interpretation of the law, e.g., estimating the time and cost in advance of complying with a FOA request for many documents and misunderstanding of the “5 day language”. She suggested that the subcommittee solicit feedback from state employees and agencies about FOA compliance issues and potential recommendations for changes in the law. The subcommittee agreed to develop a survey on compliance issues that will be distributed to state agency FOA contacts, to the Maine Municipal Association, the Maine School Management Association, the Maine Chiefs of Police Association, the Maine Sheriffs Association and others. The subcommittee also decided that respondents should be given the opportunity to submit the survey anonymously. Staff will draft the survey for the subcommittee’s review.

J. Shall review the collection, maintenance and use of records by agencies and officials to ensure that confidential records and information are protected and public records remain accessible to the public.

The Subcommittee discussed how to fulfill the charge and what would be required. It was noted that the Right to Know Advisory Committee’s enabling legislation does not require that this task be completed by a time certain. The Subcommittee discussed the potential differences in the treatment of confidential documents maintained in the Records Center and those maintained in Archives. It is the understanding of staff and members of the Subcommittee that confidential records housed in the Records Center remain the property of the state agency that created the record and, as a result, remain confidential; however, records that are housed in Archives are no longer the property of the state agency and become public records without regard to confidentiality. The Subcommittee agreed that further information from State Archives is needed on the collection and maintenance of confidential and public records. Staff will contact the State Archives.

The Subcommittee will not meet again before the November 13<sup>th</sup> Right to Know Advisory Committee meeting.

Prepared by Colleen Reid 11/7/06

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