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“Whenever the people are well-informed, they can be trusted with their own government; that whenever things get so far wrong as to attract their notice, they may be relied on to set them to rights.”

— Thomas Jefferson to Richard Price, 1789

January 28, 2010

The Honorable Rob Bell
General Assembly Building
P.O. Box 406
Richmond, Virginia 23218

**Re: House Bill No. 903/Senate Bill No. 207
FOIA Exemption for Threat Assessment Teams**

Dear Delegate Bell:

For more than a quarter century, The Rutherford Institute has advocated for the rights of citizens to self-governance and for governmental bodies to remain open and transparent so that the ideals of democracy may be served. Thus, it was with regret that we learned of your introduction of House Bill No. 903 (with its companion in the Senate, S.B. 207), to restrict the right of Virginians to access crucial information about their government’s handling of public safety matters.

H.B. 903, which proposes to wholly and entirely exempt the records of public institution threat assessment teams from disclosure under Virginia’s Freedom of Information Act (FOIA), would render these teams autonomous, secretive governmental entities immune to public oversight. Furthermore, this bill would serve to undermine FOIA, which was intended to prevent abuse of power and malfeasance by empowering citizens and the media with the ability to scrutinize the actions of government officials.

The vice of this legislation rests in its overbreadth, exempting any and all records of threat assessment teams regardless of whether disclosure of the information will serve any legitimate public or private interest. Threat assessment teams *should* feel free to

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conduct frank and open discussions about security risks that arise at colleges and universities. To this end, FOIA exemptions which allow teams to withhold information about ongoing investigations or personally identifiable information that could harm an individual are sensible. However, the language of H.B. 903 and S.B. 207 fails to narrowly address the disclosure of information that might compromise the work of the teams or individual privacy. Instead, the proposed exemption goes far beyond this constrict to insulate any and *all* information concerning threat assessment team activities in perpetuity.

This all-encompassing exemption is wholly incompatible with the basis of our representative democracy and with the kind of open government FOIA is meant to foster. Simply put, government must be accountable to the people if free government is to survive. The ability of the media to access and report on the government's actions is also necessary to ensuring a government that is open and accountable. To its detriment, however, this legislation also presupposes a mistrust of the media and its ability, consistent with its ethical obligations, to discern between necessary information and disclosures that do not serve the public interest.

When government is transparent, it not only allows for the prevention of the abuse of power and for the remedying of systemic problems within agencies, but it also promotes citizen confidence in the government as an agent of positive change. One need only look at the example of the commission charged with investigating the tragedy at Virginia Tech to understand the benefit of allowing the free flow of information from government bodies to the public. Public examination and review of the records and reports of that commission was crucial in the process that led to reforms to protect our colleges and universities from future violent rampages.

We urge you, as a sponsor for H.B. 903, to take the lead in revising this legislation so that the public and the press are not in all cases and for all time prevented from knowing what occurs in meetings, proceedings and deliberations of public institution threat assessment teams. Closing off public access to this information will only undermine public confidence in these teams and hinder valuable changes that might result from public scrutiny.

Sincerely yours,



John W. Whitehead
President

cc: All Interested Parties