



Vermont Federation of Sportsmen's Clubs^{inc.}
and the tax exempt
Federation Fund for Conservation and Training



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To: Maxine Grad, Chairwoman, House Judiciary Committee
All Representative Members of House Judiciary Committee

Date: January 23rd, 2020

RE: Freedom of Information Request / Public Records Request
Beginning of Current Biennium Forward

This is a request to inspect or copy public records pursuant to Vermont's Public Records Laws, Title 1 § 315 through § 320.

Under 1 V.S.A. § 317a, "A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to 3 V.S.A § 117(a)(5)."

"Records" mean "any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business." 1 V.S.A. § 317. §317 applies without regard to the type of technology or forum or ownership of equipment on which any such information is created, received, sent, or maintained.

Violation of such laws is subject to penalties of up to \$1000 per violation under § 320. The maker of this request specifically reserves the right to assert the position that each and any destruction of a record without authority represents a separate violation subject to separate penalty under § 320.

This is also a NOTICE of PENDING OR THREATENED LITIGATION as to any form of possible state regulation or restriction of or change in statutes relating in any way to

firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610) that is or may be considered by the House Judiciary Committee (hereinafter “Committee”), and as to which any such potential litigation the documents requested herein may be relevant. Penalties may be imposed by judicial officials for destruction of records after the receipt of this notice of potential or threatened litigation, and such penalties are separate from and can be in addition to penalties under the public records law.

The DUTY TO PRESERVE records that are or may be responsive to this request is distinct, different, and potentially broader than the obligation to produce records for inspection or copying. Under this request to inspect or copy records and notice of pending / threatened litigation, you are hereby instructed to IMMEDIATELY CEASE any and all deliberate, routine, or inadvertent deletion or destruction of any form of written record or communication or transmittal of any record, in any form, or any of the subjects covered in this request. This includes suspending any routine or other over-writing or other deletion of backup tapes, or revisions of website content without preserving evidence of past and changing versions that may contain content covered by this request.

This is also a CONTINUING REQUEST for records including records created on or after the date that this request is received by the Committee, and that come within the subject and scope of this request, which (future records) should not be destroyed without conferring and checking with the requester.

You are instructed to preserve and be prepared to provide examination or copying of all records responsive to this request in NATIVE FORMAT that preserves all relevant METADATA that may be contained in any digital form of any and all records responsive to this request, including dates, times, locations, all authors, all editors, track changes, additions, deletions, and other information regarding any and every creation or modification or transmittal of each record.

If there are materials that are responsive to this request, but that you believe or assert are privileged, confidential, or otherwise exempt from examination or copying YOU ARE NOT AUTHORIZED TO DESTROY THOSE MATERIALS but must preserve them pending full and final resolution of all issues presented by this public records request and also full and final resolution of any subsequent litigation that may arise regarding any

eventual action taken by or against the Committee or the Legislature relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610). See, e.g. Price v. Town of Fairlee, 2011 VT 48 ¶ 21 (“authority to destroy...must be stayed when a public-records request for the material is filed pursuant to 1 V.S.A § 318, and the stay must remain in effect until the request is resolved.”)

<http://info.libraries.vermont.gov/supct/current/op2010-125.html>

For any materials or portions of materials that are responsive to this request, but you believe are privileged, confidential, or otherwise exempt from examination or copying, you are to prepare an index, sometimes referred to as a “Vaughn Index” identifying the originator and recipient of the document, the substantive content of the document, and the basis and specific substantiating justification on which the content is allegedly confidential or exempt from examination or copying. See, e.g. Kade v. Smith 2006 VT 44, 180 Vt. 554 ¶¶ 3, 10.

<http://libraries.vermont.gov/sites/libraries/files/supct/180/eo2004-344.txt>

You are also instructed whenever possible to redact exempt portions of records while providing the remainder of the record: “[a] public agency shall not withhold any record in its entirety on the basis that it contains some exempt content if the record is otherwise subject to disclosure; instead, the public agency shall redact the information it considers to be exempt and produce the record accompanied by an explanation of the basis for denial of the redacted information.” 1 V.S.A. § 318(e).

I. Requested Subject matter

Anything relating to drafts, proposals, strategies, advantages, disadvantages, or any other consideration for or against any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610) within the Committee.

II. **Scope of Documents and Media Requested**

This request covers, but is not limited to:

- A. Any and all written correspondence or documents, transmitted or received in any form, whether paper or electronic, received or sent by any mode or technology, from or to any employee elected or appointed official, or hired vendor (by way of example and not limitation: law firms, lobbyists, parties outside of Vermont, consultants) of the Committee and relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to statutory enactment or revision).
- B. Any agendas or minutes, from any past present or future time relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- C. Drafts of potential legislation, rules, ordinances, penalties, or any other regulatory or punitive measure relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- D. Any articulation, of any form or nature, relating to strategy of proponents or opponents of any such potential legislation, rules, ordinances, penalties, or any other regulatory or punitive measure or consideration relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).

- E. E-Mail correspondence of any Committee member or employee using accounts provided by the public entity relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).

- F. E-Mail correspondence using personal addresses, mailboxes, or accounts not provided by the public entity (including, by way of illustration and not limitation: Hotmail, Yahoo, Gmail, or any other webmail or “cloud mail” service, any personal account of any elected or appointed official, or any unaffiliated business account of any elected or appointed official) but that relates to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610) [pursuant to 1 V.S.A. § 317, public records include any content “produced or acquired” in the role or actions of a public agency or official, without regard to whether such activity took place on or using any specific system or technology].

- G. Social Media (including, by way of illustration and not limitation: Facebook, Myspace, Twitter, Yahoo group, Front Porch Forum, or government or personal web pages that provide for or allow interaction) relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).

- H. Text messages and instant messages relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).

- I. Any weblog(s) or “blog(s)” in which any employee or Committee member is or has been the publisher of such blog or merely a contributor or commentator relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- J. Any website maintained by the Committee members or employees, whether in their official or personal capacity, relating to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- K. Any audio recordings, regardless of format in which they have been recorded, copied, or preserved that relate to any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- L. This request specifically covers materials that originated from sources other than the public officials and public bodies and entities to whom this request is presented, but that (materials) were received from others by Committee member, public officials and public bodies, regardless of the place, mode, device, or technology by which such materials were received by a Committee member, public official or body relating to any effort to enact any form of possible state regulation or restriction of or change in statutes relating to any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- M. Any written or recorded information contained in any personal computer, cell phone, smart phone, tablet, or other device, regardless of ownership or location of such device relating to any effort to enact any form of possible

state regulation or restriction of or change in statutes relating to any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).

- N. Any information shedding light on actual or anticipated financial expenditures, costs, or sources of funding associated with any effort to enact any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- O. Names, and lists of names, of supporters or opponents of any subjects covered in this request, including both private citizens, public officials and private entities, whether inside of or beyond Vermont, for or against any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- P. Any correspondence relating to any form of possible state regulation or restriction of or change to statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610).
- Q. Identify and name, individually and in detail, any and officials, employees, private or public entities, and outside vendors (by way of example and not limitation: Law firms, lobbyists, writers, consultants) that have spent time on, pro-bono or paid, for any efforts associated with any form of possible state regulation or restriction of or change in statutes relating in any way to firearms or other weapons (including but not limited to new statutes being considered or existing statutes being revised such as is being contemplated with H.600 and H.610) including name, rate of pay, dates worked, hours

worked, and sources of revenues used to pay for such work.

III. Past Deletions and Potential Violations of Public Records Law

As noted above, under 1 V.S.A. § 317a, “A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to 3 V.S.A. § 317(a)(5).”

If you have previously destroyed or deleted any correspondence or proposals relating to this inquiry, then you are instructed to:

A. Identify, to the honest and best of your ability:

i. Sender(s)

ii. Recipient(s)

iii. Subject

iv. Date; and

B. Provide the specific separate individual basis on which you had authority to destroy or delete each such item correspondence or written records or communications, on each occasion in which you destroyed or deleted such materials, without violating 1 V.S.A § 317a.

IV. Costs and Consultation with Requestor

Under 1 V.S.A. § 316 you have authority to charge actual cost for production of copies, and for certain staff time involved in making copies, but you are not authorized to charge for time or effort spent to identify, locate, or preserve responsive documents, or to make documents available for examination. See, e.g. Vermont State Employees Assn. v. Vermont Agency of Natural Resources, Dockets 517-7-10 Wncv and 518-7-10 Wncv, Washington Superior Court,

Crawford, J., January 6, 2011.

You are to immediately commence identification and preservation of records covered by this request, and then continue such preservation until further written notice from the Requestor.

You are NOT to commence copying of records covered by this request until you have provided the Requester with descriptions of responsive records and the Requester has identified in writing what records the Requester wants copies of, and at what cost.

HOWEVER the DUTY TO PRESERVE records within the scope of this request continues unless and until the Requester has indicated that this request is closed and over.

To reiterate, this is also a CONTINUING request for records including records created on or after the date that this request is received by the Committee or its officers or employees and outside vendors, and that come within the subject and scope of this request, which (future records) should not be destroyed without conferring and checking with the Requester.

Sincerely,

A handwritten signature in blue ink that reads "Chris Bradley". The signature is written in a cursive style with a large, stylized initial "C" and "B".

Chris Bradley - President, Vermont Federation of Sportsmen's Clubs

CC: Rep. Mitsy Johnson, Speaker of the House, Vermont Legislature
Legislative Counsel, House Judiciary Committee