

Guidelines for Records Requests that Implicate Public Safety Under the Freedom of Information Act (Executive Branch State Agencies)

As of July 1, 2011, as part of the reorganization of state government, the Department of Administrative Services (DAS) is assuming a number of responsibilities previously undertaken by the former Department of Public Works. Among these are the review and risk determination duties regarding certain records requests under the Freedom of Information Act (FOIA). These duties are described at Connecticut General Statutes § 1-210 (b) (19) and (d) (the “safety risk exemption”).

When an Executive Branch state agency receives a request for records under FOIA and the agency believes there are reasonable grounds to believe that disclosure of such records may result in a safety risk, the agency shall notify DAS. DAS is then responsible for making a determination, after consultation with the agency head of the requesting agency, as to that risk and for giving further direction to the agency.

The following are steps to use when an agency believes it necessary to withhold all or portions of requested public records under the safety risk exemption.

1. Notice to the Department of Administrative Services (DAS)

If an executive branch state agency (“agency”) receives a request from any person for disclosure of any records that may fall into the safety risk exemption, the agency head should send a letter to the DAS Commissioner, Department of Administrative Services, 450 Columbus Boulevard, Suite 1501 Hartford, CT 06103, with a copy to Jeffrey Beckham, Staff Counsel, DAS and Raymond Philbrick, Director of Statewide Security, DAS.

The letter should describe the requested records and should articulate, as specifically as possible, the basis of the agency’s claim for exemption. You should carefully read Connecticut General Statutes § 1-210 (b) (19) and (d). You may call to discuss arrangements for consultation with the DAS Communications Office, 450 Columbus Boulevard, Suite 1501 Hartford, CT 06103.

If the requested records are not too voluminous, please send a copy to the DAS Communications Office, 450 Columbus Boulevard, Suite 1501 Hartford, CT 06103, to Attorney Beckham’s attention. Please indicate the specific information or pages to which the proposed exemption applies. If the records are of sufficient volume to make copying and delivery impractical, please

arrange for Attorney Beckham and Director Philbrick to inspect the records as soon as practicable.

If a request involves information related to a public service company, as defined in section 16-1, a certified telecommunications provider, as defined in section 16-1, a water company, as defined in section 25-32a, or a municipal utility that furnishes electric, gas or water service, please notify the company and indicate that a safety risk determination with regard to the records is pending.

2. Notes on documentation

You are welcome to send the entire file being requested, but we ask that in your transmittal letter you identify the specific pages and documents where the exemption is being invoked.

If only a portion of the record is to be exempt, please provide a copy with the exempted information highlighted or otherwise specifically indicated.

Please indicate if the requested records are otherwise in the public domain.

Please do not send the original documents.

3. DAS Review

Upon receipt of the records or completion of their inspection, DAS will conduct an analysis and research related to the information in the request. It is likely DAS security and legal staff, in addition to the DAS Commissioner, will review the documents. The DAS Commissioner or their designee will consult the agency head with respect to the requested records to determine reasonable grounds for the exemption.

4. DAS Determination

The DAS Commissioner will make a determination as to whether the requested records are exempt from disclosure under the safety risk exemption. If it is determined that the exemption should apply, DAS will notify the agency head accordingly by issuing a letter. The agency head may be directed to withhold the records or may be directed to release a redacted version.

5. Miscellaneous

Should an agency choose to invoke other exemptions from FOIA, it is not necessary to notify DAS.

Workplace violence incident reports or investigation notes are not specifically indicated in the FOIA exemptions. To the extent information in these reports may implicate a safety risk and/or include items listed in Section 1-210 (b)(19), such records may be submitted for DAS review.

6. Questions

Any questions on this process or the FOIA exemption to which this process applies may be directed to Attorney Jeffrey Beckham in the DAS Communications Office, (860) 713-5195.