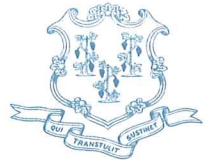


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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106
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Katherine Revello and Connecticut Inside Investigator

Complainant(s)

Notice of Meeting

against

Docket #FIC 2024-0808

Chief, Police Department, Town of Manchester; Police Department, Town of Manchester; and Town of Manchester

Respondent(s)

November 5, 2025

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

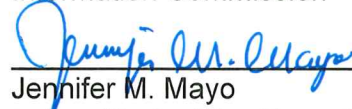
This will notify you that the Commission will consider this matter for disposition at its meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, November 19, 2025.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission ***ON OR BEFORE November 12, 2025.*** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed ***ON OR BEFORE November 12, 2025.*** PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed ***ON OR BEFORE November 12, 2025*** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission



Jennifer M. Mayo
Acting Clerk of the Commission

Notice to: Attorney David Schulz
Attorney Timothy P. O'Neil

FIC# 2024-0808/ITRA/DLM//RB/JMM/2025-11-5

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

Report of Hearing Officer

Katherine Revello and Connecticut Inside
Investigator,

Complainants

against

Docket # FIC 2024-0808

Chief, Police Department, Town of
Manchester; Police Department, Town of
Manchester; and Town of Manchester,

Respondents

November 4, 2025

The above-captioned matter was heard as a contested case on April 30, 2025, at which time the complainants and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that by email dated November 15, 2024, the complainants requested that the respondents provide them with an electronic copy of “license plate data generated by automated license plate readers in the past 30 days.”
3. It is found that, by email dated November 18, 2024, the respondents replied to the complainants’ request, stating that the information requested “is for law enforcement use only and is not for public release.”
4. It is found that, in response, the complainants requested that the respondents provide the specific exemption to disclosure that they were claiming.
5. It is found that on November 20, 2024, the respondents replied, citing §1-210(b)(3), G.S., and contending that the records responsive to the request described in paragraph 2, above, were “compiled in connection with the detection or investigation of a crime.”¹
6. By complaint filed December 6, 2024, the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying the

¹ Section 1-210(b)(3), G.S., is not, itself, an exemption from disclosure. Likewise, the reason for nondisclosure, provided by the respondents in paragraph 3, above, is also not a basis on its own for withholding public records.

request for the records described in paragraph 2, above.

7. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

8. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to . . . (3) receive a copy of such records in accordance with section 1-212.

9. Section 1-211(a), G.S., provides in relevant part that:

[a]ny public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the [FOI] Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made....

10. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is concluded that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a), and 1-211(a), G.S.

12. At the hearing on this matter, complainant Revello appeared and testified. It is found that complainant Revello is an investigative journalist who has researched and reported on public agency use of automated license plate reader technology. It is found that, through such research and reporting, she learned that the respondent Manchester Police Department was using

automated license plate reader technology in Manchester, CT.²

13. It is found that automated license plate reader technology automatically and continuously reads license plates and records various data, including license plate number, vehicle make and model, damage associated with a vehicle, and unique features such as bumper stickers.

14. It is found that the respondent Manchester Police Department entered into an agreement with Flock Group, Inc. (“Flock”). It is found that, using Flock’s software, the respondents automatically capture data pertaining to all license plates read. It is found that such data is stored on a cloud-based system and can be accessed by authorized persons within the respondent department for a period of thirty days. It is found that such data can be extracted and archived by the respondent department during that thirty-day period. However, it is also found that, after the thirty-day period, Flock automatically deletes the data.

15. Accordingly, it is found that, at the time of the request described in paragraph 2, above, records responsive to such request existed and were maintained by the respondents.

16. However, it is also found that the respondents did not extract the requested records from the cloud, and therefore, the records described in paragraph 2, above, were automatically deleted following the respondents’ receipt of the request in this matter.³

17. At the hearing, and in their brief, the respondents contended that the Commission should dismiss this matter, notwithstanding their failure to extract and preserve the records responsive to the request described in paragraph 2, above. Each of the respondents’ contentions

² The Commission notes that complainant Revello testified that she has requested and received automated license plate reader data from other public agencies in Connecticut, including the University of Connecticut and the Hartford Police Department. In a post-hearing filing, dated May 27, 2025, complainant Revello further explained that she also made a similar request to the Southington Police Department. Such department denied her request but offered to provide her with copies of different data regarding its use of automated license plate reader technology.

³ Citing the Commission’s decision in *Charles Wright v. Town of Hamden, et al.*, Docket #FIC 2019-141 (Feb. 26, 2020), the respondents erroneously assert that the Commission typically dismisses complaints where the records requested do not exist. The respondents’ broad assertion is mistaken. In *Wright*, the Commission ordered the respondents to turn over requested video footage to the extent it existed and was maintained by the respondent Public Library. In that case, the respondents failed to present testimony from a witness who could confirm whether the requested footage existed and was maintained. In this case, the respondents witness testified that at the time of the request, the requested records existed and were maintained, but were subsequently purged.

Contrary to the respondents’ assertion, under facts and circumstances similar to those presented in this matter, the Commission has concluded that public agencies have violated the FOI Act. See e.g., *C.J. Mozzochi, Ph.D. v. Town of Glastonbury, et al.*, Docket #FIC 2023-0383 (June 26, 2024); *Lisa M. Smith v. Town of East Hartford, et al.*, Docket #FIC 2024-0306 (May 25, 2025); and *Matthew Waggner v. Town of Fairfield, et al.*, Docket #FIC 2024-0403 (June 11, 2025) (each concluding that the respondents violated the FOI Act when responsive records were purged or destroyed after a request for such records had been made).

On the other hand, the Commission has dismissed cases where it has been determined that a public agency destroyed public records *prior to* a request for such records. This is because such issue pertains to the retention and destruction of public records, which falls within the jurisdiction of the State’s Public Records Administrator, and not this Commission.

will be addressed in turn.

18. First, the respondents contended that the complainants' "written request as drafted was impermissibly vague and required the respondents to conduct research/exercise discretion to determine what records fell within the scope of the request." In support of this argument, the respondents relied on the Appellate Court's decision in *Wildin v. FOI Commission*, 56 Conn. App. 683 (2000).

19. In *Wildin*, the Appellate Court explained that a request requires research if it does not identify the records sought with sufficient particularity, such that the public agency must conduct an analysis or exercise discretion to determine which records fall within the scope of the request. *Id.* at 686-87.

20. The respondents' contention that they were not required to comply with the request described in paragraph 2, above, because doing so would constitute research that is not required by the FOI Act, is unavailing. During the hearing, the respondents' witness testified, and therefore it is found, that the respondents understood the nature of the complaints' request and the records being sought, where such records were located, and that such records were subject to an automatic purging schedule.

21. Rather, it is found that the respondents denied the complainants' request because they believed that they could not extract and review thirty days' worth of data compiled by the automated license plate reader technology. It is found that the respondents were concerned about the volume of data requested, limitations with respect to extraction of the data, and the time they estimated would be required to comply with the request.

22. It is further found that, despite these concerns, the respondents did not seek assistance from Flock regarding whether there were any other ways to extract the records in order to comply with the request described in paragraph 2, above; nor did the respondents communicate the limitations described in paragraph 21, above, to the complainants or request that they modify or narrow their request.

23. It is found that, while compliance with the complainants' request, described in paragraph 2, above, may have been time consuming, doing so did not require the respondents to conduct analysis or exercise discretion. As the Court explained in *Wildin*, "[a] record request that is simply burdensome does not make that request one requiring research." *Id.* at 687. There is nothing in the FOI Act that permits a public agency to deny a request outright solely because the request is burdensome.⁴

⁴ The respondents' contention that they could not comply with the complainants' request is not countenanced by the FOI Act. It is well settled that a public agency cannot maintain records in a manner that is not accessible to the public. "[Section] 1-211(a) places the burden on the public agency to demonstrate that it cannot reasonably make the copy requested." *Hartford Courant Co. v. FOI Commission*, 261 Conn. 86, 97 (2002) ("*Courant*"). Our Supreme Court has held that, pursuant to §§1-211(a) and 1-212(b), G.S., if a public agency cannot comply with a request because it does not have the technological capability to separate exempt from nonexempt data, such request still falls within the scope of the FOI Act. Accordingly, the disclosing agency must comply with the request by either developing a program or contracting with an outside entity to develop a program, provided that the requester is willing to cover the associated cost. *Courant*, 261 Conn. at 94-95. See also *Maher v. FOI Commission, et al.*, 192

24. Next, the respondents contended that, even if they maintained the records responsive to the request described in paragraph 2, above, such records would be exempt from disclosure pursuant to §1-210(b)(3)(E), G.S., which provides:

Nothing in the Freedom of Information Act shall be construed to require disclosure of ...[r]ecords of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of such records would not be in the public interest because it would result in the disclosure of ... *investigatory techniques not otherwise known to the general public*
(Emphasis added.)

25. The Commission notes that, because the respondents did not extract and preserve the requested records, they cannot meet their burden of establishing the applicability of §1-210(b)(3)(E), G.S., based upon generalized testimony regarding records they did not review and do not exist.⁵ See *Town of Greenwich v. FOI Commission*, 226 Conn. App. 40, 59, *cert. denied*, 349 Conn. 924 (2024) (“without first conducting a search to determine whether the records ... exist and, to the extent they exist, reviewing such records, the plaintiffs cannot satisfy their burden of establishing that those records are exempt from disclosure....”).

26. It is therefore concluded that the respondents violated the disclosure requirements of the FOI Act by failing to provide the complainant with the requested records.

Conn. 310, 316 (1984). The Appellate Court recently reaffirmed *Courant and Maher in Town of Greenwich v. FOI Commission*, 226 Conn. App. 40, *cert. denied*, 349 Conn. 924 (2024).

In this case, the respondents did not present evidence that they communicated any technological incapability to the complainants, or that there were additional costs associated with developing a program or contracting with an outside agency. Instead, the respondents allowed the requested records to be automatically purged.

⁵ Based on the testimony of the respondents’ witnesses, it is unlikely that all of the requested records, if extracted and preserved, were exempt from disclosure pursuant §1-210(b)(3)(E), G.S. For example, such exemption requires that the records at issue be “compiled in connection with the detection or investigation of a *crime*.” In this case, the respondents’ witness testified that the automated license plate reader data is collected automatically and continuously. It may be used for a variety of purposes unrelated to the investigation or detection of a crime (e.g., motor vehicle violations and silver alerts). In addition, the claimant of the exemption must establish that disclosure would not be in the public interest because it would result in the disclosure of “investigatory techniques *not otherwise known to the public*.” Based on the testimony presented at the hearing, the use of automated license plate reader technology is not an investigatory technique that is generally “not otherwise known.”

The Commission reminds the respondents that the general rule under the FOI Act is disclosure; exceptions to this rule must be narrowly construed, and the burden of establishing the applicability of an exemption rests upon the party claiming the exemption. See *New Haven v. FOI Commission*, 205 Conn. 767, 775 (1988); *Ottochian v. FOI Commission*, 221 Conn. 393 (1992). “This burden requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested.” *Director, Retirement & Benefits Service v. FOI Commission*, 256 Conn. 764, 773 (2001), citing *New Haven*, *supra*.

27. The Commission notes that there is a strong public interest in law enforcement agency use of automated license plate reader technology, and that the respondents may be the subject of future requests that are similar in nature to the request at issue herein. The Commission encourages the respondents to collaborate with Flock regarding how to comply with future requests of this nature.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall strictly comply with the disclosure requirements of the FOI Act. In this regard, the respondents shall not permit the automatic purging of any records that are the subject of an FOI request.

/s/ Danielle L. McGee

Danielle L. McGee
as Hearing Officer