

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Collins and The Day,

Complainants

against

Docket #FIC 2022-0048

Mayor, City of New London;  
and City of New London,

Respondents

July 27, 2022

The above-captioned matter was heard as a contested case on June 2, 2022, at which time the complainants and the respondents appeared remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 22-3.

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 January 7, 2022, the complainants requested from the respondents, a copy of emails between the mayor, law director, finance director and chief of police “on the subject of surveillance cameras proposed for the city.”
3. It is found that, by email dated January 20, 2022, the respondents provided responsive emails to the complainants, some of which were redacted. The respondents informed the complainants that the redacted information consisted of the specific location of police surveillance cameras (“redacted information”), and that such information was exempt from disclosure pursuant to §1-210(b)(3), G.S., as an “investigatory technique.”
4. By email dated and filed February 1, 2022, the complainants appealed to this Commission, alleging that the respondents violated the FOI Act by withholding the redacted information.
5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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

[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....

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

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

9. At the hearing in this matter, the respondents argued that, in addition to §1-210(b)(3), G.S., the redacted information is exempt from disclosure, pursuant to §1-210(b)(19), G.S.

10. Section 1-210(b)(19), G.S., provides, in relevant part, that disclosure is not required of:

[r]ecords when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. Such reasonable grounds shall be determined (A)...(ii) by the Commissioner of Emergency Services and Public Protection, after consultation with the chief executive officer of a municipal, district or regional agency, with respect to records concerning such agency....

11. Section 1-210(d), G.S., provides, in relevant part:

[w]henever a public agency...receives a request from any person for disclosure of any records described in subdivision (19) of subsection (b) of this section under the

Freedom of Information Act, the public agency shall promptly notify...the Commissioner of Emergency Services and Public Protection...of such request, in the manner prescribed by such commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner, after consultation with the chief executive officer of the applicable agency, believes the requested record is exempt from disclosure pursuant to subdivision (19) of subsection (b) of this section, the commissioner may direct the agency to withhold such record from such person.

12. It is found that, by letter dated May 12, 2022, the respondents notified the Commissioner of the Department of Emergency Services and Public Protection (“Commissioner”) of the request, described in paragraph 2, above, and informed the Commissioner that they believed disclosure of the locations of the cameras and the camera hub would result in a safety risk to the public as a whole, pursuant to §1-210(b)(19), G.S. The respondents requested that the Commissioner review the requested records and provide a security risk determination.

13. It is found that the Commissioner conducted the requested review and determined that disclosure of the requested records may constitute a safety risk to one or more individuals, pursuant to §1-210(b)(19), G.S. Specifically, the Commissioner opined:

[t]hese records, if released, would reveal the locations of equipment which, if known, would assist wrongdoers in circumventing police protections and compromising public safety...and would make it easier to develop ways to foil the use of the equipment and/or alter its operational capabilities.

14. It is found that the Commissioner provided the safety risk determination in a letter to the respondents dated May 26, 2022, with direction to the respondents to withhold the redacted information.

15. It is found that the Commissioner’s determination was not frivolous, patently unfounded or made in bad faith. See People for the Ethical Treatment of Animals v. Freedom of Information Commission, 321 Conn. 805, 818-819 (2016), citing Van Norstrand v. Freedom of Information Commission, 211 Conn. 339, 345-56 (1989) (once the Commissioner has made a safety risk determination, the FOI Commission must defer to such determination unless it finds that the determination was frivolous, patently unfounded or made in bad faith).

16. Accordingly, it is found that the records, described in paragraph 2, above, are exempt from disclosure pursuant to §1-210(b)(19), G.S. Therefore, the respondents’ other claim of exemption need not be considered.

17. At the hearing in this matter, the complainants argued that the Commissioner's determination was not "relevant" because the respondents did not strictly comply with §1-210(d), G.S., in that they did not request a security risk determination from the Commissioner prior to redacting the locations of the cameras and camera hub from the records. The police chief testified, and it is found, that the requested records initially were redacted based on his own 28 years of law enforcement experience and his belief that disclosure of the requested information may create a safety risk by revealing an "investigatory technique." The police chief further testified that, based on his experience with obtaining security risk determinations from the Commissioner in other cases, the Commissioner would agree with his initial determination.

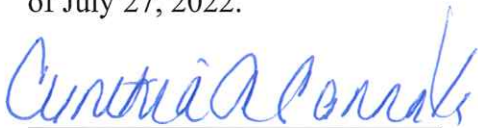
18. Although the respondents did not strictly follow §1-210(d), G.S., it is found that the Commissioner's safety risk determination clearly is relevant to whether the respondents violated the FOI Act as alleged in the complaint.

19. Based on the facts and circumstances of this case, it is concluded that the respondents did not violate the FOI Act as alleged.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 27, 2022.



Cynthia A. Cannata  
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**DAVID COLLINS AND THE DAY**, 47 Eugene O'Neill Drive, New London, CT 06320

**MAYOR, CITY OF NEW LONDON; AND CITY OF NEW LONDON**, c/o Attorney Jeffrey T. Londregan, Conway, Londregan, Sheehan & Monaco, PC, 38 Huntington Street, New London, CT 06320



Cynthia A. Cannata  
Acting Clerk of the Commission