

In the Matter of a Complaint by

POST-HEARING BRIEF

Kathrine Revello et. al.

Docket #FIC 2024-0808

Complainant

against

Chief of Police Department,
Town of Manchester, et al.

Respondents

RESPONDENT'S BRIEF

Per order of hearing officer Danielle McGee in the above matter, the respondents hereby submit the following argument for consideration:

Background:

This matter arises from a 11/15/2024 FOI email request sent by Kathrine Revello to the Town of Manchester Police Department (hereinafter, "MPD"). Said request sought, "license plate data generated by automated license plate readers in the past 30 days". At that time, the claimant also requested a fee waiver and/or notification in advance, if fees would exceed \$15.00 before proceeding with completing the FOI request.

On 11/18/2024 the police department denied the request on the grounds that the information sought, "was for law enforcement use only and not for public release". Later that day (11/18/2024) the complainant requested the Town provide a specific FOI exemption. The respondent, in turn, cited Conn. Gen. Stat. sec. 1-210(b)(3), which exempts, in part, from FOI disclosure, records compiled in connection with the detection or investigation of a crime.

Subsequently, on 12/6/2024 the complainant Kathrine Revello filed an FOI complaint with the Commission. On 4/30/2025, a hearing was held before FOI hearing officer Danielle McGee regarding the subject FOI request and denial. At that time, oral testimony and documentary evidence were submitted. The complainant Kathrine Revello, Jim White (MPD Superintendent of Communications), and Capt. Matt Pace of the MPD testified.

In pertinent part, the testimony revealed that the MPD utilizes license plate scanner hardware and technology with and through a company called Flock. In the Town of Manchester, there are currently a total of 54 license plate readers (hereinafter "ALPR's") with 41 being attached to police cruisers, 12 stationary devices, and 1 stand-alone mobile reader. Combined, those scanners read between 5,000,000 to 6,000,000 plates per month on average. The recorded plate information is stored on an Amazon web serve government site (i.e. the Cloud) and the plate information data is purged from the Cloud server by Flock every 30 days. The respondents do not control the data purge in the Cloud. That is solely within the purview of Flock.

During a rolling 30-day period, the license plate data stored on the Cloud server, is accessible by law enforcement with appropriate credentials for the purpose of determining possible criminal activity. The general public does not have access to the data. Under the current version of Flock software in use by the MPD, the raw data is downloadable by MPD personnel by inquiry request with a maximum rate of 100 image scans per inquiry (2500 records per download in spreadsheet form).

Each 100-image scan download takes approximately 7 minutes to complete depending on internet speed. A full 30-day accumulation of plate data would take at least 1600 hours to complete a search/download based on current MPD staffing.

Argument:

I. **Claimant's written request as drafted was impermissibly vague and required the respondent to conduct research/exercise discretion to determine what records fell within the scope of the request.**

As a preliminary matter, the respondent contends that the claimant's FOI request as worded, was properly denied, due to the fact it was vague and required the respondent to exercise discretion to determine which documents might be in the scope of the request.

In the matter of *Wilden v. Freedom of Information Commission*, 56 Conn. App. 683, 687 (2000), the Court considered the Connecticut Freedom of Information Act provisions that excuse a public agency from completing an FOI request which requires research in order to respond to same. In pertinent part, the Court opined that an FOI request that requires the agency to exercise discretion in determining what information is responsive to the request, constitutes research, and the public agency is not required to provide documentation in response to same.

In the present matter, the claimant's written FOI request sought, "license plate 'data' generated by automated license plate readers in the past 30 days" (emphasis added).

During the April 30, 2025, FOI hearing on the subject complaint, the complainant Kathrine Revello testified regarding her FOI request to the MPD. Within minutes of the commencement of her direct examination, the following colloquy transpired between hearing officer McGee and the witness:

"HEARING OFFICER MCGEE: Before -- I'm sorry, before you move on to that line of questioning, I do have a question about the nature of the request. Because my understanding from the complaint is that Ms. Revello asked for this kind of information from their department, so I just want to get a better sense of what kind of data you're actually searching for.

You -- you said license plate data generated by auto -- automated license plate reader. So what kind of data were you expecting to obtain?

THE WITNESS: So we were expecting to obtain the actual hits that the system records every time a vehicle goes by.

HEARING OFFICER MCGEE: Okay. And so when you say "hits," would it be a recording of like a license plate number?

THE WITNESS: Yes, it's the license plate number as well as other data associated with the (unintelligible).

HEARING OFFICER MCGEE: Can you give me an example of the other kinds of data that you expect to have received?

THE WITNESS: Yes, so it's things like the car's make and model, information about the license plate, things like whether there's any damage associated with the car.

HEARING OFFICER MCGEE: Okay. And that would be typical for what you would have received from other departments?

THE WITNESS: Some.

HEARING OFFICER MCGEE: Thank you for clarifying."

As the above exchange clearly demonstrates, the complainant's FOI email request, as submitted, was so vague that the hearing officer was unable to determine the scope of the claimant's FOI inquiry. Rather, she required clarification by way of testimony from the complainant herself.

If the hearing officer was unable to determine what information or documentation was being sought by the claimant's FOI request in this case, the respondent necessarily would have had to exercise discretion to attempt to determine what information/documentation fell within the scope of the request. For the foregoing reason, the claimant's FOI request was impermissibly vague as submitted, required research, and the respondent was not required to produce documents in response to same.

II. The information sought by the claimant's request is exempt from disclosure pursuant to Conn. Gen. Statute sec. 1-210(b)(3)

Pursuant to General Statutes sec. 1-200(1), the MPD is a public agency falling within the purview of the CT Freedom of Information Act. However, Conn. Gen. Statutes sec. 1-210 (b) (3) exempts from FOI disclosure:

“Records 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 said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known, (B) the identity of minor witnesses, (C) signed statements of witnesses, (D) information to be used in a prospective law enforcement action if prejudicial to such action, (E) investigatory techniques not otherwise known to the general public, (F) arrest records of a juvenile, which shall also include any investigatory files, concerning the arrest of such juvenile, compiled for law enforcement purposes, (G) the name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism under section 53a-189a, or injury or risk of injury, or impairing of morals

under section 53-21, or of an attempt thereof, or (H) uncorroborated allegations subject to destruction pursuant to section 1-216.”

The claimant’s FOI request filed 11/15/2024 sought, “license plate data generated by automated license plate readers in the past 30 days”. In pertinent part, the respondent claimed an FOI exemption pursuant to 1-210(b)(3)(E) of the General Statutes as the request would have required disclosure of investigatory techniques not otherwise known to the general public.

At the hearing, Captain Matt Pace clarified that of the 5 million to 6 million license plate scans the 54 ALPR’s obtain in an average 30-month period, officers only receive scan data in real time in limited circumstances (e.g. silver alerts, amber alerts, vehicles reported as stolen, owner’s with outstanding warrants, and individuals who are protected person(s) in a domestic violence incident). Generally, MPD officers are only forwarded real-time Flock data captured by the ALPR’s regarding past conduct (criminal or otherwise). Those notifications result from Flock interfacing with various sources (e.g. NCIC [which is exempt from FOI disclosure per *Commissioner of Public Safety v. FOIC*, 144 Conn. App. 821 (2013)]).

The Flock data is only one piece of a police investigation and not solely relied upon by the investigating officer. In addition, to the extent data is forwarded from the Flock system to officers in the MPD, the information is used for investigative purposes only and is only one part of the officer’s investigative tools which are not known to the general public. The Flock data does fall within the above exemption in this case.

III. The volume of data sought by the subject FOI request impossible to complete due to 3rd party vendor purging the data before a search can be completed.

As indicated above, at the hearing the claimant testified that she expected to receive from the MPD, "spreadsheets" with ALPR license plate data in response to her FOI request. The ALPR's in use by the MPD record between 5 million to 6 million plate scans in an average 30-day period and the data from those scans is stored in a Cloud server controlled by Flock.

The version of Flock software currently being utilized by the MPD, Town personnel are able to download ALPR image scans in batches of 100 plate reads at time. Each download takes approximately 7 minutes (depending on internet speed). Moreover, the task of completing spreadsheets for data gathered in a 30-day period takes approximately 1600 hours. Under those current parameters, the staff of the MPD records division working full-time solely on the present complaint, could compile a little over ½ the data sought by the claimant's request in this case (5 employees working 37.5 hours per week for 4.3 weeks) before the scan data is purged from the system by Flock. The claimant's request in this instance is virtually impossible to complete based on the data being purged by a private vendor outside the control of the MPD.

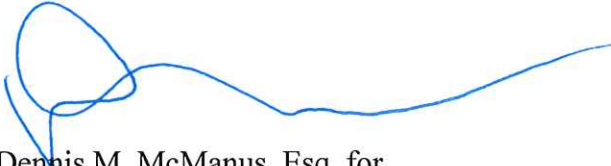
The Town cannot comply with an FOI request for the amount of data sought in the claimant's request given the parameters in and restrictions outside the MPD's control. In the past, the Commission has dismissed FOI complaints where the data requested did not exist (see e.g. *Wright v. Town of Hamden*, et al. FIC 2019-141).

Should the Commission decide that the MPD is required to comply with the types of requests filed by the claimant in this case, respondent seeks guidance from the Commission on how it proposes the respondent do so. If the onus is on the respondent to find a technological solution to the FOI disclosure issue in this case, the Commission is reminded that pursuant *Greenwich v. FOI*, AC46003, it is the claimant who must confirm her willingness to bear the attendant costs to solving the technological problem. In the present matter, the claimant's request extended only \$15.00 in expense authorization to the respondent in completing this FOI request. That amount is unlikely to cover the costs in this case.

Conclusion:

For the foregoing reasons, the complaint in this matter should be dismissed.

Respectfully submitted,

A handwritten signature in blue ink, consisting of a large, stylized initial 'D' followed by a long, sweeping horizontal line that tapers to the right.

Dennis M. McManus, Esq. for
Timothy O'Neil, Esq.
Manchester Corporation Counsel

cc. David A. Schulz (by email)