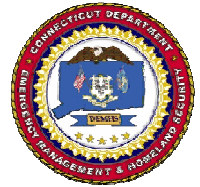




**STATE OF CONNECTICUT
DEPARTMENT OF
EMERGENCY MANAGEMENT AND HOMELAND SECURITY**



OFFICE OF THE COMMISSIONER

ADVISORY BULLETIN 2008-2

Issued May 19, 2008

**RE: GUIDELINES FOR REVIEW OF FREEDOM OF INFORMATION
REQUESTS FOR POSSIBLE SAFETY RISKS**

1. The state Freedom of Information (FOI) statute contains language on how to handle FOI requests for security-related information. See, for example, Conn. Gen. Stat. §§1-210(b)(19) and 1-210(d). Section 1-210(b)(19) states in part that “nothing in the Freedom of Information Act shall be construed to require disclosure of ...records when there is a 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 or equipment attached to, or contained in, such institution or facility....” The statute then describes the process for determining whether such a safety risk exists, and lists a number of examples of records that could be exempt from disclosure.

As of October 1, 2007, if the FOI request comes to a municipal, district or regional agency, and the agency wishes to withhold all or part of the requested records based on §1-210(b)(19) and/or §1-210(d), the chief executive officer of such agency must request a determination of the reasonable grounds for a safety risk from the Commissioner of the state Department of Emergency Management and Homeland Security.

If the FOI request comes to a state executive branch agency, the safety risk determination must be requested from the state Department of Public Works (DPW).

Neither DEMHS nor DPW has the legal authority to issue advisory opinions in advance of any FOI request that might be made to a municipal or state agency.

2. **REQUESTS TO A MUNICIPAL, DISTRICT OR REGIONAL AGENCY:**

If a **municipal, district or regional** agency intends to invoke §1-210(b)(19) and/or 1-210(d) to prevent release of security-sensitive records, the municipal chief executive officer should send a letter to the state Department of Emergency Management and Homeland Security (DEMHS) Commissioner stating the municipal, district or regional agency’s position on the release and citing the relevant statutory section(s). Please attach a copy of the Freedom of Information request, and any other related correspondence. The letter should be copied to the municipality’s internal legal counsel and any other municipal employees or officers that the municipality’s CEO deems relevant. DEMHS reviews the records on a case-by-case basis.

Arrangements must be made for review of the records. If possible, the municipal, district or regional agency should send or hand-deliver one copy of the documents to the DEMHS Commissioner's Office:

FOR MUNICIPAL, DISTRICT OR REGIONAL AGENCY REQUESTS:

Commissioner James M. Thomas
Department of Emergency Management and Homeland Security
25 Sigourney Street
Hartford, CT 06106

Please also call DEMHS Legal Advisor Brenda Bergeron, (860) 256-0816, to notify her of the request.

In order to review the possible release of security-sensitive material, DEMHS may contact not only municipal, district or regional agency employees and officials, but also, among others, the state Departments of Public Works, Public Safety, and/or the Department of Information Technology.

After consulting with the CEO of the municipal, district or regional agency, the DEMHS Commissioner will make a determination whether the requested records are exempt from disclosure under the provisions of Section 1-210(b)(19) and/or 1-210(d), and will notify the municipality/agency head accordingly by issuing a letter. The municipality/agency head may be directed to withhold the records, may be advised the records do not fall under these sections, or may be asked to submit a redacted version.

3. REQUESTS FOR COPIES OF MUNICIPAL EMERGENCY PLANS:

As a preliminary matter, every municipality is requested to notify DEMHS of the potential release of any emergency plan.

The Connecticut Department of Emergency Management and Homeland Security has received many inquiries from various municipalities, members of the media and other Connecticut citizens regarding the public release by a municipality of municipal emergency plans. These plans are local documents, and as such, the decision to release, or to request an exemption from release under the state's freedom of information laws, must originate with the municipality in question. In dealing with emergency plans, it may be necessary to consider whether the release of certain information may create a security risk. In general, the first question to be answered is whether the whole document needs to be protected, or whether there may be sections that can be released without causing a safety risk. These guidelines focus on two specific exemptions found in the Freedom of Information (FOI) statutes, but other exemptions are contained in the entire text of Connecticut General Statutes §1-210, as well as in other sections of the state's statutes. There is a specific exemption under the FOI law to allow a local or state public agency to claim an exemption for the release of "emergency plans and emergency recovery or response plans" if there are "reasonable grounds to believe that disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility." Conn. Gen. Stat. §1-210(b)(19)(viii).

4. **REQUEST TO A STATE EXECUTIVE BRANCH AGENCY:**

If a **state executive branch** government agency intends to invoke §§1-210(b)(19) or 1-210(d) to prevent release of security-sensitive records, the agency head should send a letter to the state Department of Public Works (DPW) Commissioner stating the agency's position on the release and citing the relevant statutory section(s). The letter should be copied to the agency's internal legal counsel and any others that the state agency head deems relevant. Attach a copy of the Freedom of Information request, and any related correspondence.

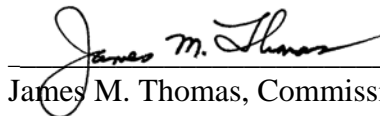
DPW reviews the records on a case-by-case basis. Arrangements should be made to send or hand-deliver one copy of the documents to the DPW Commissioner's office:

FOR EXECUTIVE BRANCH STATE AGENCY REQUESTS:

Commissioner Raeanne Curtis
Department of Public Works
165 Capitol Avenue, Room 429
Hartford, CT 06106-1606

Please also call DPW Security Director Ray Philbrick, (860) 713-5811, or Legal Counsel Kevin Kopetz, (860) 713-5680, to notify them of the request. Additional information may be found on the DPW web site.

In the case of the release of security-sensitive material, DPW may contact not only agency employees and officials, but also, among others, the state Departments of Emergency Management and Homeland Security, Public Safety, and/or the Department of Information Technology.



James M. Thomas, Commissioner

May 19, 2008
Date