

August 21, 2020

Marina Brown  
marina@e271.net

Re: Public Records Request Appeal

Marina,

The City has received your August 12, 2020 appeal of information withheld from the response to your July 21, 2020 public records requests submitted to the Burlington Police Department that sought “copies of records regarding incidents regarding the group ‘Patriot Front.’”

Responsive documents were provided and some information was redacted. The City initially stated that such information “could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

Upon request, the City subsequently provided a list of redactions. This included the page number of each redaction and citation; all redactions were made pursuant to 1 V.S.A. § 317 (c)(5)(A)(iii) which exempts “[r]ecords dealing with the detection and investigation of crime, but only to the extent that the production of such records . . . could reasonably be expected to constitute an unwarranted invasion of personal privacy.”

In reviewing the records at issues and collecting information from the Burlington Police Department as to why these redactions were initially made, I have determined that some redactions—on pages 12 and 18—will be removed because they entail publically discernable information for which there is no expectation of privacy. Please find this update in the accompanying file.

Other redactions in these records will be maintained because these records relate to the investigation by Burlington Police Department of unlawful mischief and/or disorderly conduct, and therefore the 1 V.S.A. § 317 (c)(5)(A)(iii) (language stated above) applies, exempting certain information relating to witnesses and victims from release under public records law. The information redacted pertained to names and other information of individuals who spoke to the Burlington Police Department after discovering, reporting, or witnessing the activities being investigated. None of the redacted information pertains to individuals considered to be suspects in the investigations. As such, these individual’s personal privacy should not be invaded and this information should not be made public.

In your August 12, 2020 appeal, you stated that:

“As these records most likely deal with members of Patriot Front posting stickers I am appealing these redactions on the grounds that people out in public do not have a reasonable expectation of privacy. People engaged in posting stickers publicly do not have a reasonable expectation of privacy.

...Furthermore the report referenced pictures of stickers that were posted online by the Patriot Front twitter account. There can be no expectation of privacy regarding images posted publicly online.”

Regarding your position, these records are concerned with the investigation of a crime, not the collection of unsolicited information apparent from being in public. The information being redacted—names and other personal information—are not readily discernable from observation in a public setting, and so these individuals do have a reasonable expectation of privacy.

I hope that you will find the City’s review satisfies your concerns. Please note that the Vermont Public Records Act affords any person aggrieved by this determination the opportunity to seek judicial review in accordance with 1 V.S.A. § 319.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Weinberger', written in a cursive style.

Miro Weinberger  
Mayor  
City of Burlington