

From: [Cavanaugh, Paul F](#)
To: [Laxon, Lindsay](#)
Subject: RE: RTKAC burdensome requests
Date: Thursday, July 18, 2024 11:05:26 AM
Attachments: [image001.gif](#)
[foaa request from Frank Curry for Everything technical MSP his ID 29669.pdf](#)
[original FOAA from Frank Curry re telephone and network invoices his ID 29665.pdf](#)
[ME-telco 29666.pdf](#)
[original foaa from Frank Curry about web services his ID 29668.pdf](#)
[Andro_request from FOIA Buddy.pdf](#)
[Frank-Curry-whpd-foia 4930.pdf](#)
[Screenshot_18-7-2024_104710_erls.wvsos.gov.jpeg](#)

This message originates from outside the Maine Legislature.

Good morning Lindsay,

I am not authorized to express the opinion of the Department of Public Safety regarding these comments. These are simply my observations after a couple of years in this position. It may also be that the ombudsman doesn't agree with everything I'm about to say. But, I really haven't learned to be quiet yet.

This situation is a first for me. I'll explain my worries and then discuss possible solutions. There is a webpage that will create and send FOAA searches anonymously. They will also apparently, for a fee, send the same request to multiple locations simultaneously. Here is the page: [FOIA Requests Simplified - FOIA Buddy](#). That service has been used to send four FOAA to the Maine State Police and very similar, time consuming, broad requests to Androscoggin SO and Southwest Harbor PD (see attached). These requests are incredibly broad and will be time consuming to try and respond too. I replied to email sending the requests to MSP with questions to clarify the request on 6/13/24 and no one has responded. Winter Harbor PD tried to call the number on the request and got no help. This appears to be, in my view, a FOAA designed to muck up the agency receiving it and not a legitimate request for government oversight.

This "Frank Curry" sent a school district in Pennsylvania ten complicated FOAA requests similar to the ones sent to Maine law enforcement. PA law has certain requirements about who can submit a public records request and based on the same problem Maine is facing, the School district did not need to respond. Here is the decision from PA explaining it all quite clearly. [2024-06-06_16.54.25_Agency_2024-1311.pdf \(pa.gov\)](#). This same organization

seems to have filed multiple requests in West Virginia too. See attached screen shot. I don't know what WV has done in response to these requests.

In my view, this is an abuse of the system for FOAA. We (Maine) does not seem to have an easy way for the agency receiving these abusive requests to deny them. Penn requires the request be an actual person and legal resident of the US. Our law authorizes a "person" to review public records – but does not define person (see 1 MRS §408-A (...a person has the right to inspect and copy any public record..) and §402 for definitions that does not include person.). Perhaps something similar would be consistent with FOAA intent by allow an agency to deny such "spam" requests or requests from foreign interests?

Penn appears to have a process, outside the court system, for resolving disputes about FOAA requests. We do not. Perhaps some expansion of the ombudsman office (space, personnel, training) to create an administrative process is appropriate to challenge requests like this. This would probably be expensive, but as FOAA requests expand exponentially, something needs to be done.

Maine's system for denying a request like this is almost as much work as responding to a burdensome request. I have checked with the ombudsman and others who have been doing FOAA longer and no one is aware of any case where law enforcement or a government agency used the process to deny a request. Maybe a review of §408-A(4-A) could result in a more simple process or one where the agency can explain to the requestor that the request is unduly burdensome (also not defined in our statute) and put the onus for court on the requestor. For example, Southwest Harbor PD is a two person department – they will have to take time from law enforcement to try and retrieve and review an excessive amount of documents or expand the same effort and costs to go to court and try to get permission to deny. In the context of a "spam" commercial operation creating these requests it seems like the agency should have an easier way to honor FOAA's intent but not have so many hurdles to get over.

Anyway, I hope this situation and my thoughts are appropriate to share with you and maybe the committee. If not and I've taken your time, please accept my apologies. Again, I don't speak for the Department and am simply sharing my experiences and frustrations. Thank you for your time and attention.

Respectfully,

Paul

Paul Cavanaugh

STAFF ATTORNEY, MAINE STATE POLICE

LEGISLATIVE LIAISON AND COORDINATOR, DEPARTMENT OF PUBLIC SAFETY

FREEDOM OF ACCESS ACT AGENCY CONTACT, DEPARTMENT OF PUBLIC SAFETY

42 State House Station

45 Commerce Drive

Augusta, ME 04333-0042

207-446-6590

Paul.F.Cavanaugh@maine.gov

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From: Laxon, Lindsay <Lindsay.Laxon@legislature.maine.gov>

Sent: Thursday, July 18, 2024 8:43 AM

To: Cavanaugh, Paul F <Paul.F.Cavanaugh@maine.gov>

Subject: RE: RTKAC burdensome requests

Hi Paul,

I've attached the survey that was distributed to the FOAA contacts. An email response to me is fine. Feel free to reach out with any questions!

Best,
Lindsay

Lindsay J. Laxon, Esq.
Legislative Analyst

Office of Policy and Legal Analysis
Maine State Legislature
(207) 287-1670

From: Cavanaugh, Paul F <Paul.F.Cavanaugh@maine.gov>
Sent: Wednesday, July 17, 2024 2:29 PM
To: Laxon, Lindsay <Lindsay.Laxon@legislature.maine.gov>
Subject: RTKAC burdensome requests

This message originates from outside the Maine Legislature.

Good afternoon Lindsay,

I hope all is well and you are able to enjoy more of the summer with the legislature out of session.

Somewhere in my memory I think I remember that the RTKAC wanted examples of burdensome or abusive FOAA requests. Am I remembering properly? To whom should I explain a recent problem? Is there a preferred form or something or just a narrative email? Please and thank you.

Respectfully,

Paul

Paul Cavanaugh

STAFF ATTORNEY, MAINE STATE POLICE

LEGISLATIVE LIAISON AND COORDINATOR, DEPARTMENT OF PUBLIC SAFETY

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