

STATE OF MAINE
SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

LAW COURT DKT. NO. WAL-25-431

STEPHEN BENNETT AND ERIN BENNETT-WADE

Plaintiffs-Appellants

v.

WALDO COUNTY SHERIFF'S OFFICE

Defendant-Appellee, and

TOWN OF FREEDOM

Party-In-Interest

ON APPEAL FROM THE SUPERIOR COURT
BELFAST
DOCKET NO. CV-25-15

BRIEF OF APPELLANTS

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I. INTRODUCTION

This appeal concerns the Superior Court's decision to allow a government entity to shield a public official's identity by invoking privacy protections designed for ordinary, non-public citizens caught up in criminal investigations. Appellants sought an unredacted or, in the alternative, a partially redacted investigative report under Maine's Freedom of Access Act ("FOAA") following a complaint they made to the Waldo County Sheriff's Office ("WCSO") about unauthorized tree cutting on their property. The WCSO conducted an investigation, which included a report, and Appellants requested that report. The WCSO, however, redacted the name of the Freedom town official who provided information in his capacity as an elected official, but then refused to disclose to the deputy the identity of the alleged trespasser on Bennett-Wade's land.

The Superior Court affirmed this redaction, erroneously treating the elected official as a private person with apex privacy interests, and found no significant public interest in disclosure. Because the trial court failed to distinguish between private individuals on the one hand, and public officials acting in their official capacity on the other, and because it misapplied FOAA's public-interest balancing test by imposing an unduly restrictive standard for government accountability, the trial court erred in upholding the redaction.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

On or about January 22, 2025, Appellant Stephen Bennett, of Freedom, Maine, contacted the WCSO to report unauthorized cutting and trimming of trees and brush on land in Freedom owned by his daughter, Appellant Erin Bennett-Wade, of Palermo. Officer Dyer of the WCSO conducted an investigation, which resulted in Incident Report #W25-0383 ("Report"). Appellant Bennett recommended Deputy Dyer contact the Town of Freedom, as someone in town government may have more information about the allegedly unauthorized cutting. Appendix (App.) at 28.

On February 12, 2025, after the WCSO investigation had concluded, Appellants made a FOAA request for a copy of the Report. The WCSO refused Bennett's FOAA request outright, citing 16 MRSA §804's privacy exemptions, and provided no copy of the Report, redacted or otherwise. App. 19.

On March 17, 2025 the WCSO instead released a redacted version of the Report not to Appellants but to the local newspaper, *The Midcoast Villager*, which then shared it with Appellants' counsel. App. 20, 24. As implied by the redacted report, Officer Dyer spoke with multiple people, including at least one person who knew, firsthand, what the Town did and did not authorize regarding the land in question.¹

¹ Bennett-Wade's land abuts a portion of the Beaver Ridge Road, which was the subject matter of a separate, concurrent litigation, *Charles W. Hadyaniak, et. al. v. Town of Freedom*, BELSC-CV-2024-48. At issue in that case is the legal status and public nature of a certain portion of the Beaver Ridge Road, which

The Report also implies that this unidentified person represented to Dyer that the Town had not authorized the cutting, and that he, the presumed town official, had told the person doing the cutting to stop because the cutting had not been authorized by the Select Board. It is understood that the purpose of Officer Dyer's call to the presumed town official was to find out whether the cutting had been authorized, and if not, *who* allegedly trespassed and illegally cut on Bennett-Wade's land. Yet the redacted Report also makes clear that the town official refused to provide Dyer the name of the alleged trespasser to the investigating deputy. App. 28.

Undersigned counsel, on behalf of the Appellants, immediately sought clarification from WCSO as what section, specifically, the WCSO was referring to in 16 M.R.S.A. §804 as the basis for its redactions. However, WCSO responded only that the redactions in the Report it sent to the newspaper complied with privacy protections under Maine law. It again declined to release the unredacted report even to undersigned counsel. App. 32.

From January to March 2025, the identity of the town official interviewed by the WCSO was revealed in various public forums, by the Appellants and by party-in-interest Town of Freedom alike. Transcript (Tr.) at 6.

plaintiffs alleged was abandoned by the Town of Freedom, an allegation opposed by the Town. Appellant Bennett suggested to Officer Dyer that Dyer should talk with Town Officials in case the tree cutting was related to the Town's position in *Hadyniak* – that the disputed portion of Beaver Ridge Road was open to the public and therefore needed to be maintained. App. 28.

Appellants filed an action in Superior Court on April 2, 2025, seeking full disclosure of the Report arguing, in relevant part, that:

1) one of the redacted name(s) is that of a town official and thus that official has significantly minimized privacy interest in such actions;

2) the redaction of the names of town officials, including those who refused to tell the Deputy the name of the trespasser(s), obstructed the public's ability to assess that refusal when overseeing the actions of their elected officials; and

3) the public interest in holding elected officials accountable when speaking and acting as public officials outweighed any purported personal privacy concern, contrary to what the WCSO has asserted. App. 36-38.

In an Order dated September 8, 2025, the Superior Court required an *in camera* review, App. 39-40, and, after oral argument, ultimately upheld the redactions in the Report. App. 16. Specifically, the Court determined that (1) “the Plaintiffs fail[ed] to demonstrate how disclosure of the [full] report would reveal ‘serious or substantiated government wrongdoing’; and (2) “even assuming the individual in the report is a town official, there is no evidence that the individual obstructed the officer’s investigation . . . although the report indicates that the individual ‘did not give a name [of the alleged trespasser],’ neither does the report state that the officer asked the individual for a name.”²; and (3) “FOAA requests are

² In a footnote, the Court defined “obstruct” as only how that term is defined in the criminal context of 17-A M.R.S.A. 751, a narrowing of the term not pleaded by any party. App. 15.

not meant to supplement discovery related to other litigation. . . the public has little to no interest in the Plaintiffs’ civil litigation matter with the Town about private property.” App. 10-17.

The Appellants now seek review, arguing that the Report’s context and the need for public accountability demand disclosure of the identity of all Town officials in the Report consistent with the intent, goals and language of FOAA.

The dispute before this Court is whether the WCSO may withhold, under 16 M.R.S. §804 the identity and statements of public officials who, acting in their official capacity, spoke with a Deputy about whether the Town had authorized such action on Bennett-Wade’s land, and who refused to identify those who allegedly trespassed on and defaced Bennett-Wade’s property. The identity and statements of the officials speaking on behalf of the Town lie at the heart of Appellants’ claim for disclosure.

STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

1. Whether the Superior Court erred in its interpretation and application of the privacy exemption under 16 M.R.S. §804 by granting broad confidentiality to investigative records vis-à-vis the identity of town official(s).
2. Whether the Superior Court misapplied the public interest standard under FOAA by requiring “serious or substantiated” government misconduct, and

disregarded government accountability concerns that are exactly the kind contemplated by the Freedom of Access Act.

3. Whether the Superior Court abused its discretion by failing to consider whether partial disclosure – specifically unredacting the town official(s)' name(s), while maintaining redactions of individuals not acting in a governmental role (“private individuals”) – could satisfy the privacy exception under 16 M.R.S. § 804(3).

SUMMARY OF ARGUMENT

The Superior Court's holding affirming the WCSO's FOAA denial represents a misapplication of Maine's privacy exemption as well as the public interest balancing test. The decision errs in at least three critical respects:

1. The Superior Court failed to recognize the fundamental distinction between public officials acting in their official capacity, and private individuals otherwise entitled to redaction. When a public official is questioned by law enforcement as a spokesperson for the Town, those individuals' privacy interests are therefore substantially diminished. The court's blanket application of privacy protection to all individuals mentioned in investigative records – without regard to whether they were speaking officially or privately – contravenes established precedent requiring narrow construction of FOAA exceptions.

2. The court imposed an impermissibly restrictive interpretation of the public interest standard by requiring proof of "serious or substantiated government misconduct" *before* permitting disclosure. Maine law establishes that FOAA's central purpose is ensuring the public's right to hold government officials accountable for all their actions, not just those a court would deem "serious" or "substantial"--both of which are undefined. It is up to the electorate to determine whether their officials' misconduct is serious or substantial, and they cannot do that without full disclosure of what their officials have done and said while acting on behalf of the Town.

It is illogical to require a finding of seriousness and substantiality before learning what, exactly, the officials said while representing the Town. At the heart of FOAA is government accountability, which means legitimate oversight by citizens of officials' actions to ensure transparency, truthfulness, and cooperation with law enforcement investigations, precisely the concerns present here.

3. The court failed to consider less restrictive alternatives to complete redaction. Redacting only the names and identifying information of private individuals – while disclosing the identity of the town official(s) who spoke in their official capacity – would satisfy both the privacy interests of private persons and the transparency interests of the public. The court's failure to consider this middle ground constitutes an abuse of discretion.

STANDARD OF REVIEW

In reviewing whether a government entity complied with Maine's Freedom of Access Act, this Court reviews *de novo* the trial court's factual findings for clear error and its interpretation of FOAA. *Anctil v. Department of Corrections*, 2017 ME 233, ¶5, 175 A.3d 660. Under the *de novo* standard, this Court owes no deference to the Superior Court's legal conclusions regarding the proper application of FOAA.

Additionally, it is longstanding legal doctrine that Maine courts look to the Federal Freedom of Information Act (FOIA) for guidance in interpreting the Maine FOAA. *See e.g. Campbell v. Town of Machias, et. al.* 661 A.2d 1133 (1995); *Human Rights Defense Center v. Maine County Commissioners Association Self-Funded Risk Management Pool*, 2023 ME 56, 301 A.3d 782.

Finally, the burden of proof in appeals of FOAA denials rests with the agency or political subdivision seeking to deny access, consistent with the Legislature's express instructions of liberal construction of public access with strict construction of any purported exemptions or exceptions to disclosure. *MaineToday Media, Inc. v. State*, 2013 ME 100, ¶9, 82 A.3d 104. The Appellants need not prove that disclosure should occur; rather, the WCSO must establish that "just and proper cause" existed for the denial. *Town of Burlington v. Hospital Administrative District No. 1*, 2001 ME 59, ¶13, 769 A.2d 857.

ARGUMENT

I. The Superior Court Improperly Applied the Privacy Exemption in 16 M.R.S.A. §804.

A. *The Statute Requires Strict Construction and Narrow Application of Exemptions to Disclosure.*

Maine's Freedom of Access Act embodies the fundamental principle that public records shall be presumptively open to public inspection, with exceptions construed narrowly. When drafting the statute the Legislature explicitly directed that the FOAA "shall be liberally construed and applied to promote its underlying purposes and policies." 1 M.R.S. § 401. This Court has clarified that "exceptions to the Act's disclosure requirement are strictly construed to promote the Act's underlying policies and purposes." *Doyle v. Town of Falmouth*, 2014 ME 151, ¶9, 106 A.3d 1145, 1148. *See also Moffett v. Portland*, 400 A.2d 340, 348 (Me. 1979) ("corollary to such liberal construction of the Act is necessarily a strict construction of any exceptions to the required public disclosure"). This requirement that exceptions to disclosure are to be rare is not merely procedural. It reflects FOAA's central purpose: ensuring the public's right to hold government accountable to the governed. *MaineToday Media, Inc. v. State*, 2013 ME 100, ¶8, 82 A.3d 104. Exceptions, when liberally construed, undermine this foundational principle and shift the presumption from disclosure to secrecy.

The privacy exemption codified in 16 M.R.S. §804(3) designates as confidential records containing "intelligence and investigative record information" if "there is a reasonable possibility that public release or inspection of the record would... [c]onstitute an unwarranted invasion of personal privacy." In the instant case, Appellants are seeking only what information their elected officials provided to law enforcement in their roles as elected officials. Nothing about that request impacts an official's personal privacy.

Furthermore, the Law Court has consistently applied a balancing test to determine whether disclosure constitutes an "unwarranted" invasion of personal privacy. *See Blethen Maine Newspapers, Inc. v. State*, 2005 ME 56, ¶14, 871 A.2d 523 (adopting the U.S. Supreme Court's FOIA privacy framework and holding that courts must "identify and then balance the private and public interests at play to determine whether disclosure will constitute an unwarranted invasion of personal privacy"). By its own terms, the exemption does not protect against all invasions of privacy, only *unwarranted* ones. These distinctions are critical. The statute requires courts to balance individual privacy interests against the public interest in disclosure, giving appropriate weight to FOAA's transparency mandate. In the matter before this Court, the Superior Court failed to properly conduct this balancing test.

B. Public Officials Acting in Their Official Capacity Have Diminished Privacy Rights In The Context of a FOAA Balancing Test.

At issue is the Superior Court's failure to recognize that public officials acting in their official capacity possess substantially diminished privacy interests compared to when they are conducting themselves in only their capacity as private citizens. This issue appears to be one of first impression for this Court, but there is a wealth of analogous federal precedence in the form of guidance from the FOIA. *See e.g., Providence Journal Co. v. Dep't of the Army*, 981 F.2d 552, 568–69 (1st Cir. 1992) (recognizing that while public officials retain some privacy interest, that interest is reduced where the requested information concerns their official duties); *Stern v. FBI*, 737 F.2d 84, 91–92 (D.C. Cir. 1984) (holding that high-level public officials have a diminished privacy interest in information concerning their performance of official duties, in light of the public's interest in accountability); *Perlman v. Dep't of Justice*, 312 F.3d 100, 106–07 (2d Cir. 2002) (treating the level of responsibility held by a federal employee as an important factor in assessing the weight of the employee's privacy interest, with higher-level officials generally having less protection for job-related misconduct information); *Quinon v. FBI*, 86 F.3d 1222, 1230 (D.C. Cir. 1996) (holding that privacy interests for officials are lessened under these circumstances, although not entirely erased).

When a public official speaks to law enforcement about official government actions, such as whether the Select Board authorized certain conduct – and indeed

was contacted *because* that individual was a public official App. 13, 28– that official is acting within the scope of public duties, not engaging in private conduct entitled to maximum privacy protection.

The Superior Court's citation to *Blethen* was misapplied. In *Blethen*, the privacy interests of private individuals were diminished because they voluntarily reported allegations of criminal abuse to authorities, thus creating an expectation that an investigation would follow. *See Blethen*, ¶¶ 21, 56, 871 A.2d 530, 539.

By contrast, the issue in the instant case is fundamentally different, a fact underscored by the investigating officer's own report, which explicitly characterizes the dispute about which the town official was contacted, as a "civil issue being addressed in civil court." App. 28. The Superior Court's decision erroneously protects the identity of a public official acting in an official capacity, rather than protecting a private citizen incidentally caught up in a law enforcement investigation. The redacted Report implies that the officer contacted at least one town official specifically because of that official's governmental position, to learn whether the Town's Select Board had authorized the tree cutting. This is official government conduct at the heart of a civil dispute, not personal information gathered in a criminal inquiry.

Moreover, a public official cannot shield communications about official government conduct from public scrutiny, particularly in a matter a law

enforcement officer has deemed civil in nature, merely by expressing a preference for privacy as the Report implies the Town official did. Judicial endorsement of such a principle would undermine the clear purpose and goals expressed by the Legislature in FOAA and upheld by the Court for decades.

The distinction between private individuals and public officials is well-established in federal FOIA case law. Federal courts applying the Freedom of Information Act's privacy exemption have consistently recognized that a public official's "privacy interests may be diminished in certain contexts by dint of their public office." *Project for Priv. & Surveillance Accountability, Inc. v. DOJ*, No. 20-3657, 2022 WL 4365745 (D.D.C. Sept. 19, 2022) (Howell, C.J.); *see also Fund for Constitutional Government v. National Archives and Records Service, et. al.*, 656 F.2d 856, 865 (1981) ("while such a [public] status might somewhat diminish an individual's interest in privacy, the degree of intrusion occasioned by disclosure is necessarily dependent upon the character of the information in question").

Here, the "character of the information" in question is an elected official's interaction with a law enforcement officer investigating an alleged crime on a constituent landowner's property. When the information sought concerns the official's performance of governmental duties, the privacy interest is diminished. This Court has not had occasion – until now – to square the federal public vs. private individual distinction in the context of State FOAA law. In the instant case,

this Court should apply federal guidance – as suggested by *Campbell v. Town of Machias* – and find that the Freedom Town Officials’ privacy interests were diminished by the context and character of their conversations with the WCSO.

While Maine law has not squared the public official vs. private individual privacy analysis, it has, however, recognized that *context* also matters in evaluating privacy interests. In *Doyle v. Town of Falmouth*, this Court upheld redactions of personal telephone calls made by a school superintendent, but required disclosure of calls "related to the Town's business." This Court in that instance distinguished between the superintendent's private conduct and official duties, protecting only the former. *Doyle*, 2014 ME 151, 21, 106 A.3d 1145, 1149.

The same principle applies here, as the context shows law enforcement spoke with at least one town official about (1) whether the Select Board had authorized certain conduct, (2) whether the town official(s) knew who was doing the allegedly illegal cutting, and (3) why the elected official(s) refused to tell law enforcement who did the cutting.

The Superior Court’s error in not recognizing the importance of the context of the conversation with an elected official is compounded by the court’s acceptance, at face value, of the WCSO's representation that at least one town official "wanted to stay out of it the most they can." App. 28. Even assuming this statement is accurate, a public official's subjective preference to “stay out of it” can

not legally override the public's interest in knowing what their elected officials are doing and saying when representing the electorate.³ A town official who provides information to law enforcement about whether the Town authorized conduct on private property is engaging in official conduct, regardless of the official's personal desire to avoid public scrutiny.

Finally, contrary to the Superior Court's finding, a public official's privacy interest is "substantially diminished" when the privacy interest pertains to a fact *already known to the public*. See *Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Justice*, 978 F. Supp. 2d 1, 10-11 (2013); *Quinon v. F.B.I.*, 86 F.3d 1222, 1230 (1996). Here, the Town of Freedom official at issue was publicly approached at least twice regarding his conversation with the Waldo County Sheriff's Deputy. His involvement with the WCSO's investigation of the alleged trespass on Bennett-Wade's land was well known to the public and was disclosed in public forums by statements from Plaintiff Stephen Bennett and Party-in-Interest the Town of Freedom alike. Tr. 6. (Attorney Hadyniak stating in oral argument that "through a combination of at least five public interactions between January and April 2025, plaintiffs and the party-in-interest, Town of Freedom, did expose the identity of some, if not all, of the redacted individuals'

³ See *Garrison v. Louisiana*, 379 U.S. 64, 77, 85 S. Ct. 209, 13 L. Ed. 2d 125 (1964)) ("The public-official rule protects the paramount public interest in a free flow of information to the people concerning public officials, their servants. To this end, anything which might touch on an official's fitness for office is relevant." Questions about an official's forthrightness in a matter directly related to town business pertain directly to their fitness to serve in their elected capacity.

identities”). The town official was acting in his official capacity, and his employing government body, party-in-interest Town of Freedom, effectively waived whatever privacy concern he may have had by acknowledging his identity as the public official who was interviewed by the Officer. *See e.g. Citizens for Responsibility and Ethics in Washington*, at 10 (the federal court concluded that a former United States Senator had a “substantially diminished” privacy interest in a fact already known to the public) (citing *Kimberlin v. Department of Justice*, 139 F.3d 944)(1998)). The public official’s privacy interest, therefore, is substantially diminished and certainly does not equate with the privacy to be afforded to the private individuals mentioned in the Sheriff’s Report.

II. The Court’s Application of the Public Interest Standard Was Too Restrictive.

A. The Superior Court Improperly Imposed a 'Serious Misconduct' Threshold That Contradicts FOAA's Core Purpose.

In applying the public-interest test, the Superior Court conditioned disclosure on a showing of ‘serious or substantiated government wrongdoing,’ effectively collapsing FOAA’s broader public-interest categories into a narrow misconduct standard. App. 15. That narrowing is inconsistent with *Blethen’s* recognition that the public interest includes information documenting governmental efficiency or negligence, not only proof of serious “wrongdoing.” *See generally Blethen.*

FOAA's central purpose, as articulated by the Law Court and statute, is government accountability and public scrutiny of official actions. The Court has repeatedly affirmed that FOAA "shall be liberally construed and applied to promote its underlying purposes and policies," 1 M.R.S. § 401, and exceptions are "strictly construed to promote the Act's underlying policies and purposes." *Doyle v. Town of Falmouth*, 2014 ME 151, 10, 106 A.3d 1145. With respect to the Federal FOIA, a possible invasion of privacy is warranted only if disclosure will advance its central purpose. "[W]hether disclosure... is warranted must turn on the nature of the requested document and its relationship to the basic purpose of the Freedom of Information Act to open agency action to the light of public scrutiny[,] ... rather than on the particular purpose for which the document is being requested." *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 772 (1989).

By limiting actionable public interest to instances of "serious or substantiated government wrongdoing," the Superior Court improperly narrowed the scope of FOAA beyond what both the statute and Maine Supreme Judicial Court precedent allow, and inverted FOAA's central principle by narrowly construing the public interest and broadly construing the privacy exception.

Government accountability encompasses far more than exposure of serious or substantiated wrongdoing. *See Blethen*, 32, 871 A.2d 523. ("An informed

citizenry has no less of an interest in information that might document governmental efficiency or effectiveness than it does in information documenting governmental negligence or malfeasance.)” Effectiveness, efficiency, negligence and malfeasance do not require evidence of criminal activity to qualify as being of interest to the public. Whether government officials are truthful with constituents and law enforcement, whether they cooperate with investigations, and how they exercise their authority are fundamental questions of governmental accountability that fall within FOAA's central purpose. In other words, their identities – and not just their actions or words – are fundamentally of public interest.

Here, the central question for the public is whether Town officials accurately represented to both the Appellants and law enforcement their knowledge and involvement in the tree cutting, and whether any town official shielded an alleged lawbreaker from law enforcement investigation, and thereby eliminating Appellant’s right to seek civil recourse against the alleged lawbreaker. This question directly implicates the public's interest in holding government accountable for the actions of its elected officials.

The Superior Court's limitation of this public interest to cases of “serious misconduct” is too vague a standard to be informative, and contradicts both FOAA's text and the Law Court's broad articulation of the statute's purpose. In other words, the Superior Court acknowledged FOAA's role in enabling public

scrutiny of government action, but then required proof of a vague level (“serious”) of wrongdoing before allowing any meaningful scrutiny.

The Superior Court effectively imposed a requirement that has no basis in the law: proof of “serious or substantiated” government misconduct as a precondition to disclosure. The court relied on *American Immigration Lawyers Association v. Executive Office for Immigration Review* for this standard, but that case does not support the broad misconduct requirement the Superior Court articulated. In *American Immigration Lawyers*, the federal court weighed whether the names of immigration judges should be disclosed in response to a FOIA request, holding that disclosure should be done on a case-by-case basis, guided by the severity and degree of substantiation of the allegations. *Am. Immigration Lawyers Ass'n v. Exec. Office for Immigration Review*, 424 U.S. App. D.C. 407, 415, 830 F.3d 667, 675 (2016). However, that case does not establish that serious misconduct is a threshold requirement for all public interest claims, or that courts should bar disclosure absent evidence of criminal conduct.

Instead, that case allowed that “in the case of a sitting judge with a substantial number of serious and substantiated complaints, knowledge of her identity would enable the public to examine her official actions (including decisions), both past and future, and to assess any possible implications of those complaints for the conduct of her official responsibilities.” *Id.* at 675-76. The logic

of the court in *American Immigration Lawyers* argues strongly in favor of unredacting the name of elected officials' statements to law enforcement about alleged crimes (trespass and destruction of property) on a constituent's property.

In *Blethen*, this Court also recognized that the FOAA is "intended to address the public's right to hold the government accountable." *Blethen* at ¶31. The central purpose doctrine, borrowed from federal FOIA jurisprudence, requires courts to ask whether disclosure will advance the fundamental purpose of opening government action to public scrutiny. *Id.* at ¶28. The court further held that the public has legitimate interests in "information documenting governmental efficiency or effectiveness" and "information documenting governmental negligence or malfeasance." *Id.* ¶32. These categories do not require evidence of criminal activity. Whether government officials are truthful with constituents and law enforcement, whether they cooperate with investigations, and how they exercise their authority are fundamental questions of governmental accountability that fall within FOAA's central purpose. By requiring proof of serious or substantiated misconduct before recognizing any public interest, the court transformed FOAA's exception from a narrow privacy protection into a broad confidentiality rule.

Furthermore, the court below impermissibly shifted the burden of proof. Under FOAA, the burden rests on the agency or political subdivision seeking to deny access to establish just and proper cause for the denial. 1 M.R.S.A. 409. The

Superior Court, however, required Appellants to prove serious misconduct before the court would even consider the public interest side of the balance. App. 15-16. This inversion of burden is incompatible with FOAA's structure and the Law Court's precedent establishing that agencies bear the burden of justifying withholding.

The Superior Court's misconduct requirement is particularly problematic because it effectively forecloses public access to information about governmental negligence, inefficiency, and failures of transparency, which the Law Court explicitly recognized in *Blethen* as serving FOAA's central purpose. *Blethen* at 32. Confoundingly, the Superior Court's framework does the opposite of what *Blethen* mandated: the Superior Court requires evidence of serious misconduct *before* disclosure can advance that purpose. This represents an impermissible heightening of the statutory standard.

B. Implicating Civil Litigation Context Does Not Negate Public Interest.

The Superior Court partially justified its narrow application of the public interest standard by characterizing Appellants' request as an attempt to "supplement discovery in the Plaintiffs' civil litigation."⁴ The court implied that when a

⁴ The court's characterization of the plaintiffs' interest in the concurrent *Hadyniak* litigation was incorrect. *Hadyniak* had entirely different plaintiffs. Stephen Bennett was not a party in any capacity, rather the registered agent for one of the interested parties, Beaver Hill Plantation, LLC, and Erin Bennett-Wade was only an interested party because she was a registered agent for an interested party, the Bennett Family Trust, and an interested party in her own right because she owns property which abuts the road at issue in *Hadyniak*. The only similarity in personnel shared by the two cases, at the time of the Court's decision in September now on appeal, was Attorney Hadyniak, who represented the plaintiffs in both actions, and the

requester has a private interest in the records, the public interest in disclosure is correspondingly diminished or negated. This reasoning is fundamentally flawed for two independent reasons.

First, the Superior Court misapplied *Carpenter v. U.S. Dep't of Justice*, a case which addressed a narrow circumstance: a party seeking documents solely to gain litigation advantage and raising no independent public interest. *Carpenter v. U.S. Dep't of Justice*, 470 F.3d 434, 441 (1st Cir. 2006) (holding that disclosure by law enforcement of information provided to it by a private third party served no public interest because it would reveal "nothing about the actions of the government," but rather only the actions of a private citizen).

Here, Appellants have identified legitimate public interests distinct from, and independent of, a civil dispute in which they had interest as observers but no formal role as captioned parties: whether Town officials were truthful with law enforcement, whether they cooperated fully with investigation, and how they exercised authority regarding public property. *Carpenter's* holding does not preclude disclosure when a genuine public interest in government accountability exists, even if the requester had an alleged personal stake in the outcome.

involvement of the Town of Freedom as a defendant and interested party, respectively. The Court's mischaracterization could be understandable because Deputy Dyer's redacted report implies that the complainant, Appellant Bennett, "has been dealing with" an "ongoing civil situation" with the "Town Select Board of Freedom." App. 28.

Second, FOAA demands public interest exists independently of the requester's motive. FOAA is explicitly designed to serve the public's right to information about their government. In *Blethen*, this Court held that the public's interest is not limited to disinterested requesters. *Blethen*, 2005 ME 56, ¶28, 871 A.2d 523 (explaining that the public-interest analysis turns on the nature of the records and their relationship to FOAA's purpose, "rather than on the particular purpose for which the document is being requested"). As federal authorities recognize in applying FOIA, "the identity of the requesting party has no bearing on the merits of his or her FOIA request." *U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 771 (1989). A requester's private stake in a civil dispute – whether identified as an interested observer or any other kind – does not diminish the public's legitimate interest in knowing whether government officials were truthful in any sort of litigation, and/or cooperative with law enforcement.

Here, the Superior Court's focus on a separate civil litigation matter obscured the broader governmental accountability issue. The court framed the public interest too narrowly as only those interests arising in the Plaintiffs' civil dispute with the Town. The public's interest extends beyond a separate civil suit to fundamental questions about official transparency and truthfulness. The public has an interest in knowing whether Town officials made accurate representations about the Select

Board's knowledge and authorization of the tree cutting – as well as their truthfulness and cooperation with law enforcement – and these interests are independent of any civil action.

Moreover, the public has legitimate interest in whether government officials cooperate fully with law enforcement investigations or provide only partial information. If Town officials failed to disclose material information to the investigating officer, or if official statements were incomplete or inconsistent with prior representations, this implicates governmental accountability and investigative integrity. It is exactly the kind of “malfeasance” which FOAA, as articulated in *Blethen*, means to illuminate and which exists independent of any civil dispute, and which therefore warrants disclosure under FOAA. If anything, the fact that a government entity (the WCSO) appears to be shielding public officials from public scrutiny in a dispute with citizens should heighten, not lower, the public's interest in disclosure.

III. Alternatively, the Court Failed to Consider Less Restrictive Means including Partial Disclosure

FOAA explicitly contemplates and permits redaction of protected information while releasing the remainder of a document. As this Court held in *Doyle*, "When a public record contains information that is not subject to disclosure under FOAA, the information may be redacted to prevent disclosure." *Doyle* 2014

ME 151, ¶9, 106 A.3d 1145. This principle is fundamental to FOAA's operation and reflects the statute's intentional flexibility, allowing maximum disclosure while protecting information that truly warrants confidentiality.

The Superior Court's approach – withholding the identities of everyone in the Report *regardless* of their public or private citizen status– was unnecessary and inconsistent with this principle. This approach ignores FOAA's requirement that courts apply narrowly-tailored redactions when records contain both protected and unprotected information. *See Doyle, infra*. Had the Superior Court analyzed which portions of the Report warranted redaction and which did not, it would have recognized, at the very least, that even absent full disclosure some meaningful partial disclosure was possible without compromising legitimate privacy interests.

The investigative Report references multiple categories of individuals: Appellants themselves (who were the original complainants); private citizens who may have had information about the alleged trespass and tree cutting; and implies at least one Town official contacted by WCSO *because* he was a town official and could therefore illuminate the Town's role in the alleged tree cutting. The Superior Court treated all of these categories identically, concluding that everyone mentioned possessed equally strong privacy interests meriting complete confidentiality. This categorical approach violates the individualized, particularized analysis that *Doyle* and FOAA demand. It also runs afoul of how federal courts

have construed the federal FOIA. *See Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Justice*, 978 F.Supp. 2d 1, 11 (2013) (holding that the identities of private individuals could be adequately protected by redaction, while a former Senator's identity, implicated because his conduct was described in the underlying report subject to disclosure, would properly be unredacted).

If this Court declines to order full disclosure of the withheld report, then a narrowly tailored disclosure, unredacting the town official(s)' identity and official statements, while maintaining redactions for private individuals, would satisfy 16 M.R.S. § 804(3) by protecting genuine privacy interests while advancing FOAA's central purpose of enabling public accountability. The Superior Court's failure to conduct this analysis represents an abuse of discretion.

IV. CONCLUSION

WHEREFORE, this Honorable Court should vacate the Superior Court's order and remand the matter to the Superior Court for production to Appellants of a completely unredacted Report or, in the alternative, production to Appellants of a Report with very limited redactions. The basis for this Order should be that the public official involved had substantially diminished privacy interest in the disclosure of their identities and their statements when speaking with law enforcement – given the character and circumstances of their involvement –

interests that are not outweighed by the presence of concurrent civil litigation or otherwise.

Respectfully submitted, dated in Freedom, Maine, on December 20, 2025.

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V. CERTIFICATE OF SERVICE

I, Tyler C. Hadyniak, Esq., certify that I served two copies of this Brief of Appellant, with appendix, upon the other parties in this matter by regular U.S. mail, postage paid, with a copy by email, at the addresses below:

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Dated: December 20, 2025

/s/ Tyler C. Hadyniak
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⁵ The Plaintiffs and undersigned counsel wish to sincerely thank Joseph Jambor, Maine Law Class of 2026, for his substantial contribution to this brief.

