

STATE OF VERMONT  
SUPERIOR COURT  
CIVIL DIVISION

**Anne Galloway,**  
*Plaintiff*

v.

Windsor Unit  
Docket No. \_\_\_\_\_

**Town of Hartford, Vermont,**  
*Defendant*

**Complaint and Request for Expedited Hearing**

In this action, a Vermont journalist who operates a website devoted to investigative reporting seeks to compel the town of Hartford, Vermont to produce public records reflecting the arrest of a person effected by its police department. The defendant has unlawfully refused to produce documents plainly subject to disclosure under Vermont's Public Records Act, Vt. Stat. Ann. tit. 1, §§ 315-320, and has failed to abide by the Act's requirement that any refusal to produce documents be accompanied by a list of the records withheld.

***Jurisdiction and Venue***

1. The jurisdiction of this Court is invoked pursuant to Vt. Stat. Ann. tit. 1, § 319(a).
2. This Court is the proper venue for this action because the defendant and the public records sought are located in Windsor County. Vt. Stat. Ann. tit. 1, § 319(a).

### *Parties*

3. Plaintiff Anne Galloway is a resident of Caledonia County, Vermont.
4. Ms. Galloway is a journalist who operates VtDigger.org, a non-profit website devoted to the investigative reporting of Vermont news.
5. The defendant is a Vermont incorporated municipality located in Windsor County and encompassing the villages of Hartford, West Hartford, Quechee, Wilder, and White River Junction. Vt. Stat. Ann. tit. 24-A § 123A-101.

### *Facts*

6. On the afternoon of May 29, 2010, officers of the defendant's police department were summoned to a dwelling in the village of Wilder, Vermont by a 911 caller who reported that a crime was in progress there.
7. Two or more of the defendant's police officers entered the home in question and confronted a confused and naked man inside, later identified as Wayne Burwell, the owner of the dwelling.
8. According to both Mr. Burwell and a neighbor who is a retired New Jersey police officer, the police officers utilized pepper spray on Mr. Burwell inside the dwelling and restrained him with handcuffs.
9. The defendant's police officers led Mr. Burwell from his home in handcuffs and forced him to sit on the ground wrapped in a blanket.
10. The defendant's police officers refused to permit Mr. Burwell's neighbor to verify that Burwell was not burglarizing his own home. In fact, the defendant's police officers threatened the neighbor with arrest.
11. The defendant's police officers caused Mr. Burwell to be taken from his home to the Dartmouth-Hitchcock Medical Center in Lebanon, New Hampshire, where he was treated for

his injuries.

12. Word of the arrest spread rapidly throughout the upper Connecticut valley, and a number of media accounts of the arrest have subsequently been published. *See* Gregory Trotter, *Hartford Opens Own Probe of Its Police*, Valley News, June 16, 2010, at A1; Jim Kenyon, Op-Ed., *'Temporary Custody'*, Valley News, June 4, 2010 at B1. (Attached hereto as Appendix "A").
13. On July 13, 2010, Ms. Galloway tendered a written public records request to the Hartford police department for information regarding Mr. Burwell's arrest.
14. In relevant part, Ms. Galloway's public records request sought "records reflecting the initial arrest of Wayne Burwell."
15. On July 15, 2010, Hartford police chief Glenn Cutting denied Ms. Galloway's request. (Attached hereto as Appendix "B").
16. As grounds for his refusal, Cutting cited Exemption 5 of the Public Records Act. App. B.
17. When he refused the reporter's request, Cutting did not specify what records were being withheld as required by Vt. Stat. Ann. tit. 1, § 318(a)(2). *Id.*
18. Ms. Galloway timely appealed the police department's refusal to provide the requested public records by writing to its designated head of agency, Hartford town manager Hunter Rieseberg, on July 19, 2010.
19. In a letter dated July 26, 2010, the defendant's town manager also refused to provide any information responsive to Ms. Galloway's request. (Attached hereto as Appendix "C").
20. The defendant's denial of Ms. Galloway's appeal identified Exemption 5 of the Public Records Act as the basis for its withholding and recited that "the Hartford Police Department (HPD) has referred the matter about which you inquire to the Vermont State Police for investigation." *Id.*

21. The defendant's denial of Ms. Galloway's appeal did not explain why records reflecting the arrest of Wayne Burwell would not be public despite the explicit language of the Public Records Act, which mandates that "records reflecting the initial arrest of a person and the charge shall be public." Vt. Stat. Ann. tit. 1, § 317(c)(5).
22. Having exhausted the Public Records Act's appeal process without obtaining production of the public records at issue, Ms. Galloway now contests the defendant's continued unlawful withholding of the records in this Court as the means of last recourse permitted by the Act. *See* Vt. Stat. Ann. tit. 1, § 319(a).

***Count One***

23. Paragraphs 1 – 23 are incorporated as if set forth at length herein.
24. By withholding public records as exempt without identifying the records withheld, the defendant has violated Vermont's public records act.

***Count Two***

25. Paragraphs 1 – 23 are incorporated as if set forth at length herein.
26. By refusing to disclose any public records dealing with the defendant's arrest of Wayne Burwell notwithstanding the fact that they reflect the initial arrest of a person and are therefore not exempt from disclosure, the defendant has contravened Vermont's public records act.

*Request for Relief*

27. Wherefore, Ms. Galloway is entitled to have this Court:

- a. declare that the defendant's refusal to produce public records without identifying the records withheld was unlawful,
- b. declare that the defendant's continued withholding of the public records reflecting the initial arrest of Wayne Burwell is unlawful,
- c. order the defendant to produce the records requested, and
- d. award her the costs and fees incurred in bringing this action.

28. The plaintiff requests an expedited hearing in accordance with Vt. Stat. Ann. tit. 1, § 319(b).

Respectfully submitted,  
The American Civil Liberties Union of Vermont

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July 30, 2010