



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 165 Capitol Avenue, Suite 1100 • Hartford, CT 06106
Toll free (CT only): (866) 374-3617 Tel: (860) 566-5682 Fax: (860) 566-6474 • www.ct.gov/foi • email: foi@ct.gov

Jim Torlai

Complainant(s)

Notice of Meeting

against

Docket #FIC 2024-0530

Commissioner, State of Connecticut, Department of
Correction; and State of Connecticut, Department of
Correction

Respondent(s)

August 18, 2025

Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

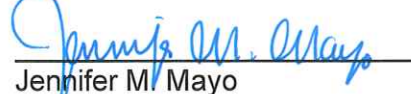
This will notify you that the Commission will consider this matter for disposition at its meeting which will be held **in person** at the Freedom of Information Commission's Hearing Room, Conference Room H, located on the ground floor at 165 Capitol Avenue, Hartford, Connecticut, at **2:00 p.m. on Wednesday, August 27, 2025.**

At that time and place, you will be allowed to offer oral argument concerning this proposed finding and order in person. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE August 25, 2025.** Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE August 25, 2025.** PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument.** **NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE August 25, 2025** and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of
Information Commission



Jennifer M. Mayo
Acting Clerk of the Commission

Notice to: Jim Torlai
Attorney Jennifer Lepore

FIC# 2024-0530/ITRA/CPH/MGS/NAS/JMM/2025-08-18

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

James Torlai,

Complainant

against

Docket # FIC 2024-0530

Commissioner, State of Connecticut,
Department of Correction; and State of
Connecticut, Department of Correction,

Respondents

August 18, 2025

The above-captioned matter was heard as a contested case on March 24, 2025, at which time the complainant and the respondents appeared and presented testimony, exhibits, and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated June 22, 2024, the complainant sent a request to the respondents for copies of the following records (hereinafter “June 22, 2024 request”):
 - (a) The full names of all persons who were processed into the NHCC [New Haven Correctional Center] Avenue [sic] during the month of December [...] 2022.
 - (b) Photographs of all persons who were processed into the NHCC during the month of December [...] 2022.
3. It is found that, by letter dated July 8, 2024, the complainant resubmitted his June 22, 2024 request to the respondents (hereinafter, “July 8, 2024 request”) because he had not yet received an acknowledgment of his June 22, 2024 request.
4. It is found that, by letter dated July 18, 2024, the respondents acknowledged receipt of the complainant’s July 8, 2024 request. It is found that, in such letter, the respondents instructed the complainant to resubmit his request in the online “GovQA” portal¹ and provided to the complainant the website address for such portal. It is further found that, in such letter, the respondents informed the complainant that they would not begin to process his request until the request was received by them via the portal.

¹ GovQA is a web-based public records management system utilized by the respondents.

5. It is found that, on July 22, 2024, the complainant entered the following records request into the GovQA portal for electronic submission to the respondents (hereinafter “July 22, 2024 request”):

The full names of all persons who were processed into the NHCC during the month of December 2022. Photographs of all persons who were processed into the NHCC during the month of December 2022.

6. It is found that, on July 22, 2024 through electronic messaging on the GovQA portal, the respondents acknowledged the complainant’s July 22, 2024 request.

7. It is found that, via email on August 13, 2024, the respondents informed the complainant that he must pay a \$204.41 “formatting and programming” fee for the respondents to further process his July 22, 2024 request. In such email, it is found that the respondents further explained that the \$204.41 cost was based upon the time that their research analyst would need to “look up” each of the 223 inmates processed into NHCC in December 2022, at one inmate per minute for a total of 3.71 hours, at an hourly rate of \$55.00 per hour.

8. By email, filed and received by the Commission on September 10, 2024, the complainant appealed to this Commission, alleging that the respondents violated both the fee provisions and promptness requirements of the Freedom of Information (“FOI”) Act.

9. Section 1-200(5), G.S., provides the following:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under section 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

10. Section 1-210(a), G.S., provides the following in relevant part:

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (3) receive a copy of such records in accordance with section 1-212.

11. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

12. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

Fees

13. With respect to the fee violations alleged by the complainant, §1-211(a), G.S., provides the following in relevant part:

Any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the Freedom of Information Act, a copy of the nonexempt data contained in such records, properly identified, on paper, disk, tape or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of section 1-212.... (Emphasis added.)

14. In turn, §1-212(b), G.S., provides the following:

The fee for any copy provided in accordance with subsection (a) of section 1-211 shall not exceed the cost thereof to the public agency. In determining such costs for a copy, other than for a printout which exists at the time that the agency responds to the request for such copy, an agency may include only:

- (1) An amount equal to the hourly salary attributed to all agency employees engaged in providing the requested computer-stored public record, including their time performing the formatting or programming necessary to provide the copy as requested, but not including search or retrieval costs except as provided in subdivision (4) of this subsection;
- (2) An amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such copying services, if such service is necessary to provide the copying as requested;
- (3) The actual cost of the storage devices or media provided to the person making the request in complying with such request; and
- (4) The computer time charges incurred by the agency in providing the requested computer-stored public record where another

agency or contractor provides the agency with computer storage and retrieval services (Emphasis added.)

15. It is found that the respondents maintain records responsive to the complainant's July 22, 2024 request in a computer storage system within the meaning of §§1-211(a) and 1-212(b), G.S.

16. It is found that, sometime between July 22, 2024, and August 13, 2024, one research analyst in the respondents' data unit wrote a computer program to retrieve from the respondents' computer storage system a list of incarcerated individuals responsive to the complainant's July 22, 2024 request. It is found that such program yielded a list of 223 incarcerated individuals who were processed into NHCC in December 2022 that was responsive to the complainant's July 22, 2024 request.

17. It is found that the respondents' research analyst wrote the computer program described in paragraph 16, above, because the respondents' computer storage system only permits searches for "real-time data," such as names of inmates currently incarcerated in NHCC, but not "historical data" requested by the complainant, such as names of inmates processed into NHCC in December 2022.

18. It is found that the respondents did not maintain any other records outside of those maintained in their "historical data" computer storage system that would be responsive to the complainant's July 22, 2024 request.

19. In light of the foregoing, it is found that the respondents could reasonably make a copy of the responsive list of inmates contained in their computer storage system within the meaning of §1-211(a), G.S.

20. It is found that it was necessary for the respondents' staff to engage in "programming," described in paragraph 16, above, within the meaning of §1-212(b)(1), G.S., in order to make a copy of the list of inmates responsive to the complainant's July 22, 2024 request.

21. Therefore, it is found that it would be permissible for the respondents to charge the complainant a fee for such programming described in paragraph 16, above, within the meaning of §1-212(b)(1), G.S.

22. It is further found that, to retrieve inmate photographs responsive to the complainant's July 22, 2024 request, the respondents' data unit research analyst would have to run a query within their computer storage system for each name from the list of 223 inmates described in paragraph 16, above. It is further found that the respondents' FOI administrator, as of the date of the contested case hearing in the above-captioned matter, was not certain whether such query would require the respondents' research analyst to write another computer program.

23. In light of the foregoing, it is found that the respondents could reasonably make a copy of the responsive inmate photographs contained in their computer storage system within the meaning of §1-211(a), G.S.

24. It is found that the respondents failed to prove that the photograph retrieval method described in paragraph 22, above, constituted necessary “formatting or programming” within the meaning of §1-212(b)(1), G.S., for which they would be entitled to charge the complainant a fee.

25. Therefore, it is found that the respondents are not permitted to charge the complainant a fee for photograph retrieval as described in paragraph 22, above, within the meaning of §1-212(b)(1), G.S.

26. Given the foregoing, it is found that the \$204.41 fee quoted by the respondents for the complainant, described in paragraph 7, above, did not constitute a permissible “programming” fee within the meaning of §1-212(b)(1), G.S., and as described in paragraphs 16 through 21, above; rather, such fee constituted an impermissible fee for the services described in paragraphs 22 through 25, above.

27. It is found, based upon foregoing, as well as upon the respondents’ own admission at the contested case hearing in the above-captioned matter, that the \$204.41 fee quoted for the complainant was not accurate.

28. It is therefore concluded that the respondents violated §1-212(b)(1), G.S., by charging the complainant a \$204.41 fee for processing his July 22, 2024 request.

Promptness

29. Regarding the issue of promptness, the Commission has held that the meaning of the word “promptly” is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982) (“Advisory Opinion #51”), the Commission opined that the word “promptly,” as used in the Act, means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Advisory Opinion provides that some of the factors to be considered are (i) the volume of records requested, (ii) the amount of personnel time necessary to address the request, (iii) the timeframe under which the requestor needs the information, (iv) the importance of the records to the requestor, (v) time constraints placed on the agency by other work, and (vi) the importance of other pressing work at the agency. Additionally, the Commission offered the following guidance:

[p]roviding such access is therefore a primary duty of all public agencies and should be considered as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority. Thus, it should take precedence over routine work that has no immediate or pressing deadline.

30. Several Superior Court decisions have found the Commission's interpretation of the promptness standard reasonable. See Commissioner, Department of Emergency Services and Public Protection v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-18-6047741-S (July 2, 2020, Cordani, J); Torlai v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-16-5017450-S (November 27, 2017, Huddleston, J.); and Smith v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-12-5015684-S (June 7, 2013, Cohn, J.).

31. It is found that the complainant made continuous good faith attempts to maintain the active status of his request, from the time of his initial request on June 22, 2024, through the subsequent nine months leading up to the contested case hearing in the above-captioned matter. It is further found that the respondents failed to recognize such attempts by the complainant, which constituted "undue delay" within the meaning of Advisory Opinion #51.

32. It is found that the respondents failed to respond to the complainant's June 22, 2024 request sent via letter as described in paragraph 2, above. It is further found that such failure was due to the respondents' internal procedures, which did not ensure that such request was delivered by the public agency to its FOI administrator upon receipt.

33. Therefore, it is found that the respondents' failure to respond to the complainant's June 22, 2024 request, described in paragraph 2, above, constituted "undue delay" within the meaning of Advisory Opinion #51.

34. It is further found that the respondents refused to process the complainant's July 8, 2024 request until the complainant submitted it once again, this time electronically through the respondents' GovQA portal, as described in paragraph 4, above.

35. The FOI Act does not require requestors to submit written requests for records to a public agency in any particular medium other than "in writing" as stated in §1-212(a), G.S.; nor does the Act require such request to be submitted via any particular delivery system, such as by post or electronically, or to be addressed to any particular individual within a public agency.

36. Therefore, it is found that the respondents' refusal to process the complainant's request for records until he submitted the request electronically constituted "undue delay" within the meaning of Advisory Opinion #51.

37. It is further found that, by letter dated September 11, 2024, the complainant sent the respondents a personal check for \$27.50 and requested that they instead provide him with only 30 names and photographs of incarcerated individuals processed through NHCC in December 2022. It is found, based upon the testimony of the respondents' FOI administrator, that she did not respond to such letter from the complainant because she did not receive it, likely due to the respondents' internal procedures, which did not ensure that such items were delivered to her.

38. Therefore, it is found that the respondents' failure to process and acknowledge the complainant's September 11, 2024 letter and personal check constituted "undue delay" within the meaning of Advisory Opinion #51.

39. It is further found that, on October 13, 2024 via autogenerated electronic messaging in the GovQA portal, the respondents informed the complainant that they considered his July 22, 2024 request to be closed, based upon the request's status in the GovQA system as "Requested Clarification" for 61 days. It is found that in such message the respondents also instructed the complainant to resubmit his request.

40. It is found that, via email on October 14, 2024, the complainant replied to the respondents' message described in paragraph 39, above, to inquire about its meaning. It is found that the complainant did not receive any answer to his inquiry from the respondents.

41. Based upon the foregoing, described in paragraphs 31 through 40, above, it is found that the complainant made continuous good faith attempts to maintain the active status of his request. It is further found that the respondents failed to recognize such attempts by the complainant, which led to the closing of his request, as described in paragraph 39, above, and constituted "undue delay" within the meaning of Advisory Opinion #51.

42. It is further found that the respondents failed to prove that any of the other factors contemplated by the Commission in Advisory Opinion #51 (e.g., the volume of records requested, pressing agency workload, or personnel time required to respond) impacted their ability to respond "promptly" to the complainant's June 22, July 8, and July 22, 2024 requests.

43. Upon consideration of all the factors presented with regard to the complainant's request made on June 22, 2024 and resubmitted on July 8, 2024 and July 22, 2024, it is found that the respondents failed to provide responsive records to the complainant "promptly" within the meaning of §§1-210(a) and 1-212(a), G.S.

44. Consequently, it is concluded that the respondents violated the promptness requirements set forth in §§1-210(a) and 1-212(a), G.S.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Forthwith, the respondents shall provide the complainant, free of charge, with a copy of the list of incarcerated individuals processed into NHCC in December 2022.
2. Within 30 days of the date of the Notice of Final Decision, the respondents shall provide the complainant, free of charge, with copies of photographs of each of the incarcerated individuals on the list described in paragraph 1 of this order.
3. Henceforth, the respondents shall strictly comply with the provisions of §§1-210(a) and 1-212(a), G.S.

/s/ Christopher P. Hankins

Commissioner Christopher P. Hankins
as Hearing Officer

HOR/#FIC2024-0530/CPH/MGS/08.18.25