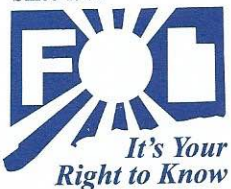


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FREEDOM OF INFORMATION

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TaShun Bowden-Lewis

Complainant(s)

against

Chairperson, State of Connecticut, Public Defender
Services Commission; and State of Connecticut, Public
Defender Services Commission

Respondent(s)

Notice of Meeting

Docket #FIC 2024-0353

May 2, 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, May 14, 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 May 13, 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 May 13, 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 May 13, 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: Attorney Thomas W. Bucci
Assistant Attorney General Philip Miller
Assistant Attorney General John Langmaid

FIC# 2024-0353/ITRA/MKS//RB/JMM/2025-05-2

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

Report of Hearing Officer

TaShun Bowden-Lewis,

Complainant

against

Docket # FIC 2024-0353

Chairperson, State of Connecticut, Public
Defender Services Commission; and State of
Connecticut, Public Defender Services
Commission,

Respondents

May 2, 2025

The above-captioned matter was heard as a contested case on October 24, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, 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 the complainant held the position of Chief Public Defender of the State of Connecticut until she was removed from the position by a vote of the respondent Public Defender Services Commission for the State of Connecticut ("respondent commission") during a June 4, 2024 meeting of the respondent commission ("June 4, 2024 Meeting").
3. By letter of complaint filed June 17, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by improperly:
 - a. failing to state the purpose of the executive session convened during the June 4, 2024 Meeting; and
 - b. failing to hold such executive session in public because the complainant had exercised her right, pursuant to §1-200(6)(A), G.S., to have the proceedings concerning her dismissal conducted in public session.

The complainant further requested that the Commission declare null and void the vote of the respondent commission to remove the complainant from her position.

Failure to State the Purpose of the Executive Session

4. With respect to the complainant's claim described in paragraph 3.a., above, §1-225, G.S., in relevant part, provides:

- (f) A public agency may hold an executive session as defined in subdivision (6) of section 1-200, upon an affirmative vote of two-thirds of the members of such body present and voting, taken at a public meeting and stating the reasons for such executive session, as defined in section 1-200.

(Emphasis added.)

5. At the hearing on this matter and in her post-hearing brief, the complainant contended that the respondents violated the FOI Act by voting to convene in executive session during the June 4, 2024 Meeting without stating on the record the purpose of the executive session.

6. It is found that the agenda for the June 4, 2024 Meeting¹ stated as follows:

[a.] Pertaining to Public Hearing held pursuant to Connecticut General Statutes §51-290(d) in the matter of Chief Public Defender, TaShun Bowden-Lewis.

[b.] Executive Session pertaining to the matter of Chief Public Defender, TaShun Bowden-Lewis.

7. It is found that, at the June 4, 2024 Meeting, the following exchanges took place:

CHAIRPERSON PALMER: Good afternoon. I think we can open the meeting of the Public Defender Services Commission. Sorry for the delay. The only order of business for this evening is the matter of Attorney TaShun Bowden-Lewis. The Commission has some brief matters that it needs to attend to in executive session, so we'll adjourn to executive session as soon as we have a motion. I don't think we will be long.

MR. SOLOMON: So moved.

MR. JEFFERSON: Second.

CHAIRPERSON PALMER: Any discussion? All in favor?

THE COMMISSION: Aye.

(Executive Session)

(Emphasis added.)

¹ The Commission takes administrative notice of the June 4, 2024 Meeting agenda which is published at https://portal.ct.gov/-/media/ocpd/commission_pdf/commission-2024/june-4th-commission-agenda-2024.pdf?rev=6c9e1c8a1d3b4da08fe981d470d7f5cb&hash=C09490CF900C1C3731F812D9D2337D6B, last accessed April 22, 2025.

8. It is found that the respondent commission member who proposed the motion to go into executive session during the June 4, 2024 Meeting merely stated, “so moved” and that the respondent commission members unanimously voted to convene in executive session based upon that motion.²

9. It is found that, although the respondent chairperson generally described the June 4, 2024 Meeting as solely pertaining to the complainant, the motion to enter executive session during the June 4, 2024 Meeting failed to identify with sufficient particularity the reason for the executive session. See, e.g., *Lowthert v. Bill Brennan, First Selectman, Town of Wilton, et al.*, Docket #FIC 2014-417 (June 24, 2015) (respondent board violated §1-225(f), G.S., by moving to convene in executive session without stating the reason for convening the executive session); *Carmen Lopez v. Denise Taylor-Moye, as member, Budget and Appropriations Committee, City Council, City of Bridgeport, et al.*, Docket #FIC 2018-0219 (November 14, 2018) (description such as “strategy and negotiations with respect to pending claims or pending litigation” does not sufficiently state the reason for convening in executive session, within the meaning of §1-225(f), G.S.); *Kate King and the Stamford Advocate v. Water Pollution Control Authority, City of Stamford, et al.*, Docket #FIC 2012-502 (May 8, 2013) (the public agency must give some indication of the specific topic to be addressed, prior to convening in executive session, and descriptions such as “personnel,” “personnel matters,” “legal” or even “the appointment, employment, performance, evaluation, health, dismissal of a public officer or employee” are inadequate and do not state the reason for convening in executive session, within the meaning of §1-225(f), G.S.).

10. It is concluded, therefore, that the respondents violated §1-225(f), G.S., as alleged in the complaint and described in paragraph 3.a., above.

Failure to Hold the June 4, 2024 Executive Session in Public

11. With respect to the complainant’s claim described in paragraph 3.b., above, §1-225, G.S., in relevant part, provides:

- (a) The meetings of all public agencies, except executive sessions, as defined in subdivision (6) of section 1-200, shall be open to the public.

² In her post-hearing brief, the complainant claimed that the minutes of the June 4, 2024 Meeting falsely indicate that the respondents had asserted that the reason it had adjourned to executive session was to “discuss the matter pertaining to the Chief Public Defender, TaShun Bowden-Lewis,” when the transcript of the meeting demonstrates that no specific reason was provided for convening in executive session. The Commission takes administrative notice of the minutes for the June 4, 2024 Meeting, which are published at https://portal.ct.gov/-/media/ocpd/commission_pdf/commission-2024/june-commission-meeting-minutes-final-web-posting-6-4-2024.pdf?rev=422f2d609c844daab507b66921b0dd43&hash=3027387D853E89F589CBE5DEF0B4238B, last accessed on April 22, 2025. The Commission does not agree that the minutes of the June 4, 2024 Meeting indicate that the purpose was in fact stated at the June 4, 2024 Meeting. However, such minutes do declare that the reason for convening in Executive Session was, in accordance with §§1-200(6)(A) and 1-200(6)(B), G.S., to discuss the matter pertaining to the Chief Public Defender, TaShun Bowden-Lewis. The complainant never raised, at the hearing on this matter or in the complaint, the claim that the June 4, 2024 Meeting minutes were inaccurate, therefore this issue will not be further addressed herein.

12. Section 1-200(6)(A), G.S., provides:

“Executive sessions” means a meeting of a public agency at which the public is excluded for one or more of the following purposes:
(A) Discussion concerning the appointment, employment, performance, evaluation, health or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting

(Emphasis added.)

13. It is found that the complainant’s counsel sent a letter to the respondent chairperson, dated April 2, 2024, indicating that he had been retained to represent the complainant in the matter of Tashun Bowden-Lewis, and further stating that the complainant requested that “the hearing be held in a public session before the [respondent commission]” (“April 2, 2024 Letter”). (Emphasis added.)

14. It is found that the respondent commission convened a special meeting and hearing in the matter of Tashun Bowden-Lewis on April 16, 2024 (“April 16, 2024 Meeting”). It is further found that the sole order of business for the April 16, 2024 Meeting consisted of a public hearing pursuant to §51-290(d), G.S., regarding the potential removal of the complainant from her position as the Chief Public Defender.

15. It is found that the complainant and her counsel attended the April 16, 2024 Meeting. It is found that, at the April 16, 2024 Meeting, the respondent chairperson stated as follows:

Although this is a personnel matter and therefore subject to being heard in executive session, under statute Ms. Bowden-Lewis has the right to elect a hearing conducted by the Commission in public session, and she has exercised that right. So in accordance with her election, the hearing is being held in public session.

(Emphasis added.)

16. It is found that, at the April 16, 2024 Meeting, the respondent chairperson also stated, with respect to the process:

After all the witnesses have been heard, Mr. Bucci and/or Ms. Bowden-Lewis will be afforded the opportunity to present a closing statement. When closing statements have been completed, the Commission will proceed to executive session to consider the charges in light of the totality of the evidence. ... Upon the conclusion of its deliberations, the Commission will announce its decision publicly either orally or in writing.

(Emphasis added.)

17. It is found that, at the April 16, 2024 Meeting, the respondent chairperson also asked the complainant and her counsel whether they had anything they would like to say and complainant's counsel stated that he planned on making an opening statement, and that the complainant would respond to the charges in a narrative fashion. However, it is found that, in response to the respondent chairperson's inquiry, neither the complainant nor her counsel objected to the respondent commission convening, after the hearing, in executive session to deliberate upon the charges against the complainant.

18. It is found that, toward the end of the April 16, 2024 Meeting, the respondent chairperson stated that the respondent commission would recess the hearing and continue it to a different date to allow for more witnesses, if any, and for closing statements. It is further found that the respondent chairperson further stated that:

the Commission would need to deliberate at a meeting in executive session. And then, if we were able to reach a decision at that meeting, we could do so and provide either a written or oral statement. But the bottom line is that there will be one more meeting, at least, if we recess today.

(Emphasis added.)

19. It is found that neither the complainant nor her counsel stated, at the April 16, 2024 Meeting, that the complainant requested that the deliberations be conducted in open session. Nor did they object to the deliberations being conducted in executive session.

20. It is found that the public hearing on the matter of Tashun Bowden-Lewis was not completed during the April 16, 2024 Meeting and that the respondent commission convened a special meeting, on April 25, 2024, for the continuation of such hearing ("April 25, 2024 Meeting").

21. It is found that the complainant and her attorney attended the April 25, 2024 Meeting. It is further found that the continuation of the hearing was conducted in public session pursuant to complainant's counsel's April 2, 2024 Letter, which requested that the hearing be conducted in public session.

22. It is found that, after closing statements by the complainant and her attorney, the respondent chairperson stated the following, at the April 25, 2024 Meeting:

Thank you very much Mr. Bucci, Ms. Bowden-Lewis. I think that unless you have anything further that will conclude the hearing. I think the members -- the commission will respond to whatever it deems necessary and appropriate to respond to in a decision that we issue rather than attempt to do that now. And we will be recessing or -- into executive session to discuss the matter. We'll do that now. I do want to make it clear though that the commission will not be making a decision today. ... but we do want to begin our deliberations and discussions now. So with that,

is there anything that I'm missing?

(Emphasis added.)

23. Before convening in executive session during the April 25, 2024 Meeting, the respondent chairperson indicated that the executive session would take place in a separate room to preserve confidentiality and also stated that:

when we do come out of executive session, I think that we will only go into regular session for a minute or two to announce that we're adjourning and then we will make sure that whenever we have reached the decision, that people have ample notice of it so they can be there. And of course, Mr. Bucci and Ms. Bowden-Lewis can be there to hear the decision ...

(Emphasis added.)

24. It is found that, during the April 25, 2024 Meeting, neither the complainant nor her counsel objected to the respondent commission convening in executive session for deliberations although they had received sufficient notice thereof.

25. It is found that at the June 4, 2024 Meeting, the following exchanges took place:

CHAIRPERSON PALMER: We're back in regular session.

MR. BUCCI: Justice Palmer?

CHAIRPERSON PALMER: Yes, sir.

MR. BUCCI: Would you please place on the record the legal basis for going into executive session?

CHAIRPERSON PALMER: Sure. We actually wanted to discuss the proceedings going forward, and we wanted to discuss what I'm about to tell you about a decision that was - -

MR. BUCCI: That -- that's a personnel matter involving Attorney Bowden-Lewis, and she could require that to be in public session. There's no exclusion for discussion of a pending personnel action to go into executive session.

CHAIRPERSON PALMER: Well, Mr. Bucci, you've -- we've gone into executive session on a number of occasions, and you haven't objected to that.

MR. BUCCI: I'm objecting today, Justice Palmer.

CHAIRPERSON PALMER: Well, you're objecting a little late aren't you?

MR. BUCCI: No. You went into executive session before asking for any discussion?

CHAIRPERSON PALMER: All right.

MR. BUCCI: I think it's a clear violation of the Freedom of Information Act.

CHAIRPERSON PALMER: Okay. You're certainly entitled to

that view. The first matter is this is there a motion to adopt the written decision of the Public Defender Services Commission concerning this matter?

MR. JEFFERSON: So moved.

MR. SOLOMON: Second.

CHAIRPERSON PALMER: Any discussion? All in favor.

THE COMMISSION: Aye.

(Emphasis added.)

26. It is found that, at the June 4, 2024 Meeting, the respondent commission voted to adopt the written decision of the respondent commission, which dismissed the complainant from her position as Chief Public Defender for the State of Connecticut.

27. With respect to the complainant's claim in paragraph 3.b., above, the complainant contended, at the hearing on this matter and in her post-hearing brief, that the respondent commission improperly went into executive session during the June 4, 2024 Meeting because the complainant had previously expressed, in the April 2, 2024 Letter, that she wanted the matter concerning her to be held in public session pursuant to §1-200(6)(A). The complainant also contended that, during the June 4, 2024 Meeting, the respondent commission afforded the complainant no time to object to the convening of the executive session.

28. The respondents contended, at the hearing on this matter and in their post-hearing brief, that the complainant, in the April 2, 2024 Letter, solely requested that the hearing phase of the proceedings be held in public session but never requested that the deliberations be held in public. The respondents also claimed that the complainant and her counsel never objected to the respondent commission entering into executive session during the respondent commission's meeting on April 25, 2024, despite having notice thereof, and that they failed to timely object during the June 4, 2024 Meeting, despite having notice of the meeting and an opportunity to object previously and during the June 4, 2024 Meeting. Relying on the Connecticut Supreme Court's decision, in *Board of Police Comm'rs of City of New Haven v. Freedom of Info. Comm'n*, 192 Conn. 183 (1984) ("*Police Commissioners*"), the respondents argued that the complainant, therefore, failed to make an effective request that all discussions concerning her employment and dismissal, including deliberations of the respondent commission that preceded her dismissal, be held in public.

29. In *Police Commissioners*, the New Haven Police Department dismissed a police officer after a disciplinary hearing. In that case, the hearing had been conducted in public, but the deliberations of the police commissioners took place in executive session. *Police Commissioners*, at 186. The officer claimed that he had elected, under §1-200(6)(A), G.S., that "discussion" regarding his possible discharge be conducted in open session, not in private. However, his letter to the board requested simply that his "hearing be open to the public." *Id.*, at 189. The Supreme Court held that the Commission had erred in ruling for the officer because the officer's letter to the board requesting that the hearing be held in public was insufficient to inform the board that he wanted all discussions concerning his employment and dismissal, including deliberations and votes, to be held in an open meeting. *Id.*, at 190. The court also emphasized that the officer failed to object when the board declared the recesses to conduct the

deliberations in private.

30. It is found that *Police Commissioners* controls this matter.

31. At the hearing on this matter, the complainant testified on her own behalf and the respondents presented no witnesses because, according to the respondents' counsel, "what was written and said is in the record."

32. Based upon the transcripts to which the parties stipulated, it is found that the respondent commission discussed, during the executive session of the June 4, 2024 Meeting, the proceedings going forward with respect to the Matter of TaShun Bowden-Lewis as well as the respondent commission's written decision to dismiss the complainant from her position.

33. It is found that, as in *Police Commissioners*, the complainant's April 2, 2024 Letter, which requested that her hearing be held in public was insufficient to inform the respondent commission that she wanted all discussions concerning her employment and dismissal, including deliberations, to be held in an open meeting.

34. Based upon the transcripts of the respective meetings, to which the parties stipulated, it is found that, when the respondent chairperson stated at the April 16, 2024 Meeting that the deliberations would be conducted in executive session, as described in paragraphs 16 and 18, above, neither the complainant nor her counsel objected, despite the opportunity to do so. It is further found that, when the respondent commission voted to go into executive session during the April 25, 2024 Meeting, as described in paragraphs 22 and 23, above, no objection was raised by the complainant or her counsel.

35. It is found that the respondent commission did not immediately convene in executive session during the June 4, 2024 Meeting, but rather the respondent chairman made several remarks at the beginning of the meeting, and the respondent commission then voted to convene in executive session. It is found that the complainant could have objected to the executive session prior to the commencement of the executive session during the June 4, 2024 Meeting.

36. In addition, it is found that both at the time the respondent chairperson indicated that the respondent commission planned to convene in executive session during the June 4, 2024 Meeting and at the time the respondent commission voted to go into executive session at such meeting, as described in paragraph 7, above, neither the complainant nor her counsel objected. It is further found that they raised no objection during such meeting until after the respondent commission exited the executive session.

37. It is found that, as in *Police Commissioners*, the complainant failed to make an effective request that all discussions concerning her employment and dismissal, including deliberations of the respondent commission that preceded her dismissal, be held in public, and therefore it is concluded that the respondent commission did not violate §1-200(6)(A), G.S., as alleged in the complaint and described in paragraph 3.b., above.³

³ To the extent that the respondent commission discussed "the proceedings going forward," the Commission questions whether the respondent commission has proven that such discussion was a proper discussion during an executive session within the meaning of §1-200(6), G.S. However, this issue was not raised in the complaint nor

Complainant's Claim Made at the Hearing on this Matter Concerning a Meeting on May 21, 2024

38. At the hearing on this matter and in her post-hearing brief, the complainant contended that the respondent commission disregarded her rights by convening in executive session during a meeting on May 21, 2024, because the complainant's counsel was informed that such meeting would not go forward.

39. It is found that, by email dated May 14, 2024, the Deputy Associate Attorney General/Chief of the Employment, Workers' Compensation and Labor Section of the State of Connecticut Office of the Attorney General informed the complainant's counsel that a special hearing that had been scheduled to take place on May 21, 2024 in the matter of Tashun Bowden-Lewis would not be going forward as scheduled and that the special hearing would instead take place on June 4, 2024.

40. It is found that the respondent commission convened a special meeting on May 21, 2024 ("May 21, 2024 Meeting"). It is found that the minutes for the May 21, 2024 Meeting state that the respondent commission convened in executive session to discuss Tashun Bowden-Lewis. It is found that neither the complainant nor her counsel was present at the May 21, 2024 Meeting, due to the email described in paragraph 39, above.

41. It is concluded that the Commission lacks jurisdiction over this claim because, even taking a broad reading of the complaint, it does not allege that the respondents violated the FOI Act by convening in executive session during the May 21, 2024 Meeting; rather the May 21, 2024 Meeting is nowhere referenced in the complaint.⁴

Request to Null and Void the Respondent Commission's Actions

42. Section 1-206, G.S., states in relevant part:

(b)(2) In any appeal to the Freedom of Information Commission under subdivision (1) of this subsection or subsection (c) of this section, the commission may confirm the action of the agency or order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act. The commission may declare null and void any action taken at any meeting which a person was denied the right to attend.

43. Based on the facts and circumstances of this case, the Commission, in its discretion,

during the hearing and therefore will not be addressed further herein.

⁴ At the hearing on this matter, the complainant's attorney stated that they learned of the May 21, 2024 Meeting in preparation for this complaint. Thus, it appears that he had notice of such meeting prior to submitting the complaint to the Commission. In addition, to the extent that the complainant contends that the respondents' actions surrounding the May 21, 2024 Meeting demonstrate some type of duplicity on their part, such a claim was also not raised in the complaint and, nevertheless, the complainant failed to prove such a claim.

declines to declare null and void the respondent commission's actions at the June 4, 2024 Meeting.

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

1. Henceforth, the respondents shall strictly comply with the requirements of §1-225(f), G.S.

/s/ Mary-Kate Smith
Mary-Kate Smith
as Hearing Officer