

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Katherine Camara and
Rose Soboleski,

Complainants

against

Docket #FIC 2020-0134

State Marshal, Mark A. Raimo,

Respondent

December 15, 2021

The above-captioned matter was scheduled for hearing as a contested case on July 23, 2021, at which time both the complainants and the respondent appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2020-0487; Katherine Camara v. State Marshal, Mark A. Raimo.

Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

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

1. The respondent is a public agency within the meaning of §1-200(1), G.S.¹
2. It is found that, by letter dated March 6, 2020, the complainants requested that the respondent provide them with "the opportunity to inspect [his] accounting records from January 21, 2016 to the present, with specific interest in those pertaining to work performed by [him] on behalf of the Town of Watertown." ("March 6th request").
3. It is found that, by email dated March 11, 2020, the respondent acknowledged the complainants' March 6th request. It is found that, by email dated March 12, 2020, the respondent denied such request, claiming that his "records and accounts are confidential and not subject to disclosure under the Freedom of Information Act."

¹ See Docket #FIC 2019-0455; Sheri Speer v. State Marshal Joseph LoGioco (May 7, 2021) (Commission concluded that state marshals are "public officials" of the State of Connecticut and thus public agencies within the meaning of §1-200(1)(A), G.S.).

4. By letter of complaint filed March 13, 2020,² the complainants appealed to the Commission, alleging that the respondent violated the Freedom of Information (“FOI”) Act by failing to comply with their March 6th request.

5. At the time of the request, section 1-200(5), G.S., provided:

“[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, printed, photostated, photographed or recorded by any other method.³

6. Section 1-210(a), G.S., provides that:

[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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. [Emphasis added].

7. 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.”

8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. At the hearing and in his post-hearing brief, the respondent claimed that the requested accounting records are not subject to disclosure pursuant to the Connecticut State Marshal Manual (2017) and Conn. Gen. Stat. §6-38e. The respondent claimed that, under section X of the manual, the State Marshal Commission “has declared authority over the accounting records

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which required the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M, which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains subject matter jurisdiction.

³ Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped”.

of the Connecticut State Marshals and clearly carved out an exemption to the Freedom of Information Act for those records.... [Such records] are only subject to audit and review by the Connecticut State Marshal Commission.” (Respondent’s Post-hearing Brief, dated September 27, 2021).

10. It is found that the State Marshal Manual was compiled by the State Marshal Commission staff pursuant to Section 6-38b-4 of the Regulations of Connecticut State Agencies.⁴ It is found that page 1 of the manual states:

The Manual provides a brief overview of some of the common areas of state marshal work. It contains information about state marshal duties and responsibilities as well as sample forms and reference materials. **This Manual is not comprehensive. In addition it is not a substitute for the law and may not be relied upon as legal advice....** [Emphasis in original].

11. In addition, it is found that the State Marshal Manual (on page 116, section X) includes a copy of the State Marshal Commission’s “Client Fund/Trust Account and Audit Policy”, which, as stated in the policy, was adopted by such commission “to establish uniform procedures for state marshals in the management of their trust accounts that is consistent with laws, regulations, procedures and the professional standards of the [c]ommission.” It is found that such policy also states:

State marshals are required to follow this Client Fund/Trust Account and Audit Policy to perform execution work and to safeguard, document and process any sums they collect under statutory or court authority. All state marshals who perform execution work under the terms of state statutes and this policy are subject to the audit and review of their records and accounts under Conn. Gen. Stat. §§6-38e and 2-90a⁵.

12. It is found that the State Marshal Manual is not a federal law or state statute. It is therefore found that such manual does not provide an exemption to mandatory disclosure within the meaning of §1-210(a), G.S.

13. With respect to the respondent’s claim that the requested accounting records are exempt from disclosure pursuant to Conn. Gen. Stat. §6-38e, such statute provides:

The State Marshal Commission shall periodically review and audit the records and accounts of the state marshals. Upon the death or

⁴ Section 6-38b-4(a) of the Regulations of Connecticut State Agencies provides that: “[t]he State Marshal Commission shall publish a manual providing information relevant to the duties and responsibilities of state marshals. This manual shall be provided to all state marshals.”

⁵ Conn. Gen. Stat. §2-90a, provides that “[t]he Auditors of Public Accounts shall have the authority to audit the trust accounts maintained by state marshals.”

disability of a state marshal, the commission shall appoint a qualified individual to oversee and audit the records and accounts of such state marshal and render an accounting to the commission. All information obtained by the commission from any audit conducted pursuant to this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200. [Emphasis added].⁶

14. The respondent contended that §6-38e, G.S., applies to all of his accounting records because at “any point in time” such records can be requested by the State Marshal Commission as part of an audit. Such contention presents a question of statutory interpretation of §6-38e, G.S., in the present case.

15. According to our Supreme Court, under the “plain meaning rule,” (§1-2z, G.S.), the text of the statute itself and its relationship to other statutes must be examined first in determining the meaning of statutory language. If, after such examination, the meaning of the text is “plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered.” Chairperson, Connecticut Medical Examining Board, et. al. v. Freedom of Information Commission, 310 Conn. 276, 283 (2013), citing Commissioner of Public Safety v. Freedom of Information Commission, 301 Conn. 323, 338 (2011).

16. Upon application of the plain meaning rule to this case, it is concluded that the language in §6-38e, G.S., is plain and unambiguous and does not yield absurd or unworkable results. It is concluded that §6-38e, G.S., as amended, was meant to apply only to the State Marshal Commission and information “obtained by” such commission from any audit. It is further concluded that had the legislature intended, by amending §6-38e, G.S., to conceal state marshal accounting records, wherever located, it would have done so explicitly. See e.g., Conn. Gen. Stat. §17a-101k(a) (“The Commissioner of Children and Families shall maintain a registry of the commissioner’s findings of abuse or neglect of children.... The information contained in the registry and any other information relative to child abuse, wherever located, shall be confidential....”) (Emphasis added).

17. Based upon the foregoing, it is concluded that the requested accounting records are not exempt from disclosure pursuant to §6-38e, G.S.

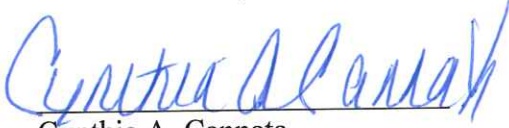
18. Accordingly, it is concluded that the respondent violated the FOI Act by failing to provide a copy of the requested accounting records to the complainants.

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

⁶ It is found that in 2003 the General Assembly amended §6-38e, G.S., and added the following language: “All information obtained by the commission from any audit conducted pursuant to this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.”

1. Forthwith, the respondent shall provide a copy of the requested records, free of charge, to the complainants.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 15, 2021.



Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

KATHERINE CAMARA, 31 Cottage Place, Oakville, CT 06779; **AND ROSE SOBOLESKI**, 456 Davis Street, Oakville, CT 06779

STATE MARSHAL, MARK A. RAIMO, c/o Attorney Edward G. Fitzpatrick, Fitzpatrick, Mariano, Santos, Sousa, PC, 203 Church Street, Naugatuck, CT 06770 and Attorney Danielle N. Perugini, Fitzpatrick, Mariano, Santos & Sousa PC, 203 Church Street, Naugatuck, CT 06770



Cynthia A. Cannata
Acting Clerk of the Commission