

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Sheri Speer,

Complainant

against

Docket #FIC 2019-0455

State Marshal Joseph LoGioco,

Respondent

June 9, 2021

The above-captioned matter was heard as a contested case on October 8, 2020, at which time the complainant and the respondent appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The Commission notes that the case caption has been amended to reflect the fact that the appeal in this case was filed against an individual state marshal.

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

1. It is found that, by letter dated June 28, 2019<sup>1</sup>, the complainant requested that State Marshal Joseph LoGioco provide her with copies of the following records:

- a. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney Donna Skaats regarding myself (Sheri Speer) between June 1, 2015 to the present;
- b. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney Donna Skaats regarding 55 Rosemary Street, New London, Connecticut between June 1, 2015 to the present;
- c. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney

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<sup>1</sup> The Commission notes that, while the complainant's request for records in this case is dated June 28, 2018, the actual date of the request is June 28, 2019.

Donna Skaats regarding 848 Bank Street, New London, Connecticut between June 1, 2015 to the present;

- d. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney Donna Skaats regarding 269 Vauxhall Avenue, New London, Connecticut between June 1, 2015 to the present;
- e. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney Donna Skaats regarding 59 Coit Street, New London, Connecticut between June 1, 2015 to the present; and
- f. All emails, faxes, letters and phone logs of communications you received from or sent to Attorney Donna Skaats regarding 76-78 Truman Street, New London, Connecticut between June 1, 2015 to the present.

2. It is found that, on or about July 7, 2019, State Marshal LoGioco acknowledged the complainant's request. It is found that, in the acknowledgement, State Marshal LoGioco informed the complainant that he did not believe that he was subject to the Freedom of Information ("FOI") Act and that, even if he were subject to the FOI Act, he did not maintain any records responsive to the request.

3. By letter dated July 27, 2019 and filed July 30, 2019, the complainant appealed to the Commission, alleging that the respondent had violated the FOI Act by failing to provide her with copies of the requested records.

4. Section 1-200(1)(A), G.S., provides, in relevant part, that:

'[p]ublic agency' or 'agency' means: (A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official. . . .

5. State Marshal LoGioco appeared at the contested case hearing and testified.

6. With regard to the jurisdictional argument, the respondent contended that individual state marshals are not subject to the FOI Act because they are independent contractors, who are self-employed. The respondent further contends that, other than being paid a fee by the government for performing their services, the state marshals maintain their own private offices and the government is not involved in the day-to-day operations of the state marshals' businesses.

7. The Commission notes that the definition of a "public agency" is very broad and includes any "authority or official" of "[a]ny executive, administrative or legislative office of the state."

8. Pursuant to §6-38a (a), G.S., "state marshal" means:

a qualified deputy sheriff incumbent on June 30, 2000, under section 6-38 or appointed pursuant to section 6-38b who shall have authority to provide legal execution and service of process in the counties of this state pursuant to section 6-38 as an independent contractor compensated on a fee for service basis, determined, subject to any minimum rate promulgated by the state, by agreement with an attorney, court or public agency requiring execution or service of process.

9. Even though state marshals are considered independent contractors, such consideration does not preclude them from being public officials of the State of Connecticut. See McAllister v. Valentino, Sr., No. CV-11-5029414-S, 2012 WL 1591990 at \*4 (Conn. Super. Ct. Apr. 12, 2012) (finding that, for purposes of sovereign immunity, the defendant state marshal is a public official); see also International Motorcars, LLC v. Sullivan, No. HHB-CV-05-4005168, 2006 WL 1999377 at \*4 (Conn. Super. Ct. June 20, 2006) (finding "that the defendant as a state marshal is a public official under the Spring test because state marshals have '(1) an authority conferred by law, (2) a fixed tenure of office, and (3) the power to exercise some portion of the sovereign function of government'"), citing Spring v. Constantino, 168 Conn. 563 (1975),<sup>2</sup> superseded by statute on other grounds, see Gross v. Rell, 304 Conn. 234, n.7 (2012).

10. It is 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. It is therefore concluded that the respondent state marshal is subject to the disclosure requirements of the FOI Act.

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<sup>2</sup> The Spring court set for the factors for courts to use in determining whether a defendant works in a "public office" and carries out a sovereign function of the state, and therefore may be considered a public official for purposes of sovereign immunity. See Spring, 168 Conn. at 568-69.

11. Section 1-200(5), G.S., provides:

“[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.

12. Section 1-210(a), G.S., provides, in relevant part, 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.

13. 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.”

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

15. With regard to the request for records set forth in paragraph 1, above, it is found that the complainant is seeking records related to tax foreclosures that were conducted on her properties located in the City of New London.

16. It is found that State Marshal LoGioco maintained some of the requested records, including certified mailings that are required to be sent to the certified property owners and lien holders, during the time that service of process was being conducted, during the foreclosure process and during the time when the properties were being sold.

17. It is found that, after the properties identified in paragraph 1, above, were foreclosed upon and sold, State Marshal LoGioco forwarded the records that he maintained to the tax collector for the City of New London.

18. It is found that, at the time State Marshal LoGioco received the request for records in this case, the records that he maintained had already been forwarded to the tax collector for the City of New London.

19. It is concluded that the respondent did not violate the FOI Act, as alleged in the complaint.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 9, 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:

**SHERI SPEER**, 151 Talman Street, Norwich, CT 06360

**STATE MARSHAL, CITY OF NEW LONDON; AND NEW LONDON COUNTY STATE MARSHALS, CITY OF NEW LONDON**, c/o Joseph LoGioco, P.O. Box 1224, New London, CT 06320



Cynthia A. Cannata  
Acting Clerk of the Commission