STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by FINAL DECISION

Bruno Matarazzo Jr.,

Complainant

against Docket # FIC 2023-0242

Chief Public Defender, State of Connecticut, Division of Public Defender Services; State of Connecticut, Division of Public Defender Services; Chair, State of Connecticut, Public Defender Services Commission; and State of Connecticut, Public Defender Services Commission,

Respondents April 10, 2024

The above-captioned matter was heard as a contested case on January 8, 2024, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

Following the hearing on January 8, 2024, the respondents filed written objections to disclosure of the records at issue in this matter. The respondents also filed the records that are the subject of this matter for in camera inspection. On the Index to Records Submitted for In Camera Inspection, the respondents asserted exemptions to disclosure that were not previously raised. Therefore, the hearing officer ordered the parties to appear for a reopened hearing on March 12, 2024, to take evidence concerning the written objections to disclosure and the additional claims of exemption.

At the March 12, 2024 hearing, the hearing officer ordered the respondents to submit to the Commission a copy of the agenda for the January 10, 2023 and February 7, 2023, meetings of the respondent Public Defender Services Commission, and the respondents immediately complied. The exhibits have been marked as follows: Respondents' Exhibit 2 (after-filed): January 10, 2023 Agenda of the Public Defender Services Commission (1-page) and Respondents' Exhibit 3 (after-filed): February 7, 2023 Agenda of the Public Defender Services Commission.

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

1. The respondents are public agencies only with respect to their administrative functions, within the meaning of §1-200(1), G.S.[1]

2. It is found that, by email dated March 28, 2023, the complainant, who is a reporter with the Republican-American Newspaper, requested to review the minutes for each executive session that occurred during the January 10, 2023 and February 7, 2023 meetings of the Public Defender Services Commission.

3. It is found that, by letter dated March 30, 2023, the respondents acknowledged receipt of the complainant's request.

4. It is found that, by letter dated April 12, 2023, the respondents denied the request described in paragraph 2, above, asserting that the minutes are not public records, and citing §§1-200, *et seq.*, 1-200(6)(A), 1-210(b)(10), and 1-225, G.S.[2]

5. By complaint filed April 19, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying the request for the records described in paragraph 2, above.

6. 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, videotaped, printed, photostated, photographed or recorded by any other method.

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[1] Section 1-200(1), G.S., defines "Public agency" or "agency," in relevant part, as "any judicial office, official, or body or committee thereof but only with respect to its or their administrative functions, and for purposes of this subparagraph, 'judicial office' includes, but is not limited to, the Division of Public Defender Services…."

Section 51-1a(a), G.S., provides, in relevant part, that "the Judicial Department of the state shall consist of the Supreme Court, the Appellate Court, the Superior Court, the Office of the Chief Court Administrator and their employees and divisions, the courts of probate, and … the Public Defender Services Commission. For the purposes of the general statutes, 'Judicial Branch' means the Judicial Department."

[2] The Commission notes that §1-200(6)(A), G.S., sets forth the definition of "Executive Session," and is not a basis to withhold public records. See Thomas J. Laufer v. Town of East Windsor, Docket #FIC 78-135 (Oct. 25, 1978) (finding that, while §1-200(6)(A) [formerly §1-18a(e)(5)], G.S., "sets forth the proper purposes for an executive session, it does not exempt the minutes of such executive sessions from disclosure." See also Peter J. Bezrucik v. Building Department Investigative Committee of the City of New Britain Common Council, Docket #FIC 88-342 (Nov. 30, 1988)(finding that a tape recording of an executive session is a public record); David E. Williams v. Board of Police Commissioners, Docket #FIC 86-176 (Oct. 8. 1986)(finding that the failure to disclose a copy of the requested executive session minutes was a violation of the FOI Act). Similarly, §1-225, G.S., sets forth provisions related to the conduct of meetings of public agencies and is not a basis to withhold public records. There is nothing in §§1-200(6)(A) and 1-225, G.S., that permit a public agency to withhold public records.

7. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

8. 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."

9. It is concluded that the requested records are public records, within the meaning of §§1-200(5) and 1-210(a), G.S., to the extent they are records of an administrative function of the respondents.

10. It is found that the Public Defender Services Commission convened for a regular meeting on January 10, 2023 and February 7, 2023. It is found that the agenda for each meeting sets forth several categories of business to be conducted, including, in relevant part, "personnel matters."[3]

11. It is found that, during the January 10, 2023 and February 7, 2023, meetings, the Public Defender Services Commission entered into an executive session. It is found that the publicly available minutes for both meetings reflect that the respondent entered the executive session "in accordance with §§1-200(6)(A) and 1-210(b)(10) of the Connecticut General Statutes."

12. It is found that for the executive sessions described in paragraph 11, above, the respondent Chief Public Defender entered the executive session and drafted detailed minutes summarizing the discussions that occurred therein.

13. Following the hearing on January 8, 2024, the respondents submitted to the Commission a copy of the executive session minutes for the January 10, 2023 and February 7,

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[3] The Commission is concerned that the respondents may not have fairly apprised the public of the reason for the executive sessions on January 10, 2023 and February 7, 2023, as required by §§1-225(c) and 1-225(d), G.S. The Commission has consistently held that in order for the public to be fairly apprised of the reason for an executive session, the agency must give some indication of the specific topic to be addressed. Descriptions such as "personnel," "personnel matters," "legal," or "the appointment, employment, performance, evaluation, health, dismissal of a public officer or employee," are inadequate. See, e.g., Richard L. Stone v. Board of Selectmen, Town of Cromwell, Docket #FIC 2010-738 (August 24, 2011) (agenda item "[e]xecutive session: [p]ersonnel," did not fairly apprise the public of proposed matter to be discussed); Bradshaw Smith v. Milo W. Peck, Jr., Member, Board of Education, Windsor Public Schools, Docket #FIC 2007-003 (August 8, 2007) (agenda item "employee personnel matters," did not fairly apprise the public of the matter to be discussed in executive session); John Voket and the Newtown Bee v. Board of Education, Newtown Public Schools, Docket #FIC 2006-013 (October 11, 2006) (agenda item "executive session – personnel," did not fairly apprise the public); and Trenton Wright, Jr. v. First Selectman, Town of Windham, Docket #FIC 1990-048 (agenda item "executive session – personnel matters," did not sufficiently state the reason for the executive session).

2023 meetings for in camera inspection, along with an Index to Records Submitted for In Camera Inspection ("Index"). Such records are hereinafter referred to as IC-2023-0242-1 through IC-2023-0242-4.[4]

14. At the hearings in this matter, the respondents contended that they denied the complainant's request for the records described in paragraph 2, above, because they believed such records contain confidential information about personnel matters and the clients they represent. The complainant disputed that the requested records are exempt in their entirety. The complainant also stated that he is not seeking information that pertains to the defense of any pending criminal case or the identity of the respondents' clients.

15. Based on the statements of the complainant, as described in paragraph 14, above, and after a careful in camera inspection, consideration of the respondents' contentions that IC-2023-0242-3 lines 22-35 and IC-2023-0242-4 lines 36-40 are exempt from disclosure pursuant to §§1-210(b)(2), 1-210(b)(4), 1-210(b)(10), and/or 1-210(b)(19), G.S., is not warranted.

16. With respect to the remaining portions of the in camera records, in Clerk of the Superior Court v. Freedom of Information Commission, 278 Conn. 28 (2006), the Supreme Court explained that the legislature intended for the scope of the FOI Act, as applied to the courts, "to be much more limited than its scope as applied to state agencies." Id., 39. The Court also explained, "the legislature intend[ed] for the act to be limited to records prepared by a subdivision of the judicial branch only in the course of carrying out an administrative function" and further that "it also intended for the phrase 'administrative functions' to be construed narrowly." Id. The Court then set forth the types of records that relate to the administrative functions of the courts. Specifically, the Court stated:

> We conclude, therefore, that administrative records are records pertaining to budget, personnel, facilities and physical operations of the courts and that records created in the course of carrying out the courts' adjudicatory function are categorically exempt from the provisions of the [Freedom of Information Act].

Id., 42.

17. It is found that the remaining portions of the in camera records pertain to an administrative function of the respondents. It is concluded that such records are public records, within the meaning of §§1-200(5) and 1-210(a), G.S., and that such records must be disclosed unless the respondents prove that they are exempt from disclosure.

18. On the Index, the respondents contended that IC-2023-0242-1 through IC-2023-0242-4, or portions thereof, are exempt from disclosure pursuant to §§1-210(b)(2) and 1-214, 1-210(b)(9), 1-210(b)(4), 1-210(b)(10), and/or 1-210(b)(19), G.S. Each claim of exemption will be addressed in turn.

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[4] For clarity, the Commission notes that IC-2023-0242-1 is numbered continuously, from line 1-32. IC-2023-0242-2 begins with line 33 and is numbered continuously through line 46. Similarly, IC-2023-0242-3 is numbered continuously from line 1-35. IC-2023-0242-4 is numbered continuously from line 36 through line 45.

§§1-210(b)(2) and 1-214, G.S.

19. First, the respondents contended that IC-2023-0242-1 through IC-2023-0242-4, or alternatively, that IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13, are exempt from disclosure pursuant to §§1-210(b)(2) and 1-214, G.S.[5]

20. Section 1-210(b)(2), G.S., provides in relevant part that nothing in the FOI Act shall require disclosure of "personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy ...."

21. The Supreme Court set forth the test for the exemption contained in §1-210(b)(2), G.S., in Perkins v. Freedom of Info. Comm'n, 228 Conn. 158, 175 (1993). First, the claimant must establish that the files in question are personnel, medical or similar files. Second, the claimant must show that disclosure of the records would constitute an invasion of personal privacy. In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: (1) that the information sought does not pertain to legitimate matters of public concern, and (2) that disclosure of such information is highly offensive to a reasonable person. Id., 175.

22. Section 1-214, G.S., provides in relevant part that:

> (b)(1) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files and the agency reasonably believes that the disclosure of such records would legally constitute an invasion of privacy, the agency shall immediately notify in writing (A) each employee concerned, provided such notice shall not be required to be in writing where impractical due to the large number of employees concerned, and (B) the collective bargaining representative, if any, of each employee concerned.
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> (b)(2) Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files, and the agency reasonably believes that the disclosure of such records would not legally constitute an invasion of privacy, the agency shall first disclose the requested records to the person making the request to inspect or copy such records and subsequently, within a reasonable time after such disclosure, make a reasonable attempt to send a written or an electronic copy of the request to inspect or copy such records, if applicable, or a brief description of such request, to each employee

[5] The Commission notes that, on the Index, the respondents did not claim any exemption with respect to the information contained in line 4 of IC-2023-0242-1. However, during the hearing, the respondents testified that the information in line 4 is exempt from disclosure pursuant to §1-210(b)(2), G.S. The Commission therefore considers the omission of IC-2023-0242-1 line 4 from the Index to be an inadvertent error, and hereby considers the respondents' claim that the information set forth therein is exempt from disclosure pursuant to §1-210(b)(2), G.S.

concerned and the collective bargaining representative, if any, of each employee concerned.

(b)(3) Nothing in this section shall require an agency to withhold from disclosure the contents of personnel or medical files and similar files when it does not reasonably believe that such disclosure would legally constitute an invasion of personal privacy.

(c) A public agency which has provided notice under subdivision (1) of subsection (b) of this section shall disclose the records requested unless it receives a written objection from the employee concerned or the employee's collective bargaining representative, if any, within seven business days from the receipt by the employee or such collective bargaining representative of the notice or, if there is no evidence of receipt of written notice, not later than nine business days from the date the notice is actually mailed, sent, posted or otherwise given. Each objection filed under this subsection shall be on a form prescribed by the public agency, which shall consist of a statement to be signed by the employee or the employee's collective bargaining representative, under the penalties of false statement, that to the best of his knowledge, information and belief there is good ground to support it and that the objection is not interposed for delay. Upon the filing of an objection as provided in this subsection, the agency shall not disclose the requested records unless ordered to do so by the Freedom of Information Commission pursuant to section 1-206. Failure to comply with a request to inspect or copy records under this section shall constitute a denial for the purposes of section 1-206. Notwithstanding any provision of this subsection or subsection (b) of section 1-206 to the contrary, if an employee's collective bargaining representative files a written objection under this subsection, the employee may subsequently approve the disclosure of the records requested by submitting a written notice to the public agency.

23. It is concluded that the notification and non-disclosure provisions of §1-214(b) and (c), G.S., apply only when a public agency has a reasonable belief that disclosure would legally constitute an invasion of personal privacy.

24. At the hearing, the respondents' witness testified, and it is found, that the respondents believed that disclosure of the requested records would constitute an invasion of personal privacy in that portions of such records identify specific personnel and information about their job duties and/or performance, and therefore they notified the subject personnel of the request described in paragraph 2, above.

25. Based on the foregoing reasoning, as described in paragraph 24, above, and after a careful, in camera inspection, it is found that it was not reasonable for the respondents to believe

that disclosure of the in camera records would constitute an invasion of personal privacy within the meaning of §1-210(b)(2), G.S. See Perkins, supra, 228 Conn. 177 ("[W]e note that when a person accepts public employment, he or she becomes a servant of and accountable to the public. As a result, that person's reasonable expectation of privacy is diminished, especially in regard to the dates and times required to perform public duties. *The public has a right to know not only who their public employees are, but also when their public employees are and are not performing their duties.*") (Emphasis added.)

26. It is found that, although the respondents notified the subject personnel of the complainant's request, described in paragraph 2, above, the respondents did not adhere to the requirement of §1-214(b)(1), G.S., to *immediately* notify the subject personnel.

27. Notwithstanding, it found that the respondents received an objection to disclosure of IC-2023-0242-1 lines 1-9 and a separate objection to disclosure of IC-2023-0242-3 lines 4-13.

28. It is found that the respondents also notified the objecting personnel that this matter was pending before the FOI Commission. It is found, however, that the objecting personnel did not move to intervene in this matter or appear to testify, nor did any collective bargaining unit representative. It is also found that only one of the objecting personnel was afforded the opportunity to review the records described in paragraph 2, above, prior to objecting to disclosure.

29. With respect to the contention that IC-2023-0242-1 through IC-2023-0242-4, or alternatively, IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13, are exempt from disclosure pursuant to §1-210(b)(2), G.S., the general rule under the FOI Act is disclosure, and exceptions to this rule must be narrowly construed. The burden of establishing the applicability of an exemption clearly rests upon the party claiming the exemption. New Haven v. FOI Comm'n, 205 Conn. 767, 775 (1988). "This burden requires the claimant of the exemption to provide more than conclusory language, generalized allegations or mere arguments of counsel. Rather, a sufficiently detailed record must reflect the reasons why an exemption applies to the materials requested." Id., 776.

30. Based on the foregoing, and after a careful, in camera inspection, it is found that the respondents failed to prove that the IC-2023-0242-1 through IC-2023-0242-4 constitute "personnel or medical files" within the meaning of §1-210(b)(2), G.S.

31. With respect to whether the IC-2023-0242-1 through IC-2023-0242-4, or alternatively, IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13, are "similar to" a "personnel or medical file," within the meaning of §1-210(b)(2), G.S., the Supreme Court has concluded that whether a file is similar in nature to a personnel or medical file "requires a functional review of the document at issue." The Court explained:

> If a document or file contains material, therefore, that under ordinary circumstances would be pertinent to traditional personnel decisions, it is 'similar' to a personnel file. Thus, a file containing information that would, under ordinary circumstances, be used in deciding whether an individual should, for example, be promoted,

> demoted, given a raise, transferred, reassigned, dismissed or subject to other such traditional personnel actions, should be considered 'similar' to a personnel file for the purposes of §1-[210](b)(2).

Connecticut Alcohol & Drug Abuse Commission v. FOI Commission, 233 Conn. 28, 41 (1995).

32. Based on the foregoing, and after a careful, in camera inspection, it is found that IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13, contain material that, under ordinary circumstances, would be pertinent to traditional personnel decisions, and therefore such records constitute "similar files" within the meaning of §1-210(b)(2), G.S. It is found, however, that the remaining portions of the in camera records do not constitute "similar files," within the meaning of §1-210(b)(2), G.S., and therefore the Commission need not consider whether disclosure of such portions of would constitute an invasion of personal privacy, within the meaning of §1-210(b)(2), G.S.

33. With respect to whether disclosure of IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13, would constitute an invasion of privacy, within the meaning of §1-210(b)(2), G.S., it is found that such portions of the in camera records contain material that pertains to the work related duties and performance of the subject personnel. It is therefore concluded that there is a legitimate public interest in disclosure of such portions of the in camera records. It is also concluded that disclosure of such portions of the in camera records would not be highly offensive to a reasonable person. It is therefore concluded that disclosure of IC-2023-0242-1 lines 1-9 and 13-20, and IC-2023-0242-3 lines 4-13 would not constitute an invasion of privacy, within the meaning of §1-210(b)(2), G.S.

34. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to §1-210(b)(2), G.S.

§1-210(b)(9), G.S.

35. Next, the respondents contended that IC-2023-0242-1 through IC-2023-0242-4, or alternatively, IC-2023-0242-3 lines 4-13, are exempt from disclosure pursuant to §1-210(b)(9), G.S.

36. Section 1-210(b)(9), G.S., provides, in relevant part, that nothing in the FOI Act shall require disclosure of "records, reports and statements of strategy or negotiations with respect to collective bargaining[.]"

37. Section 1-210(b)(9), G.S., "does not exempt every record pertaining to collective bargaining from disclosure, *only those that reveal strategy or negotiations*." Bloomfield Educ. Ass'n v. Frahm, 35 Conn. App. 384, 388, cert. denied, 231 Conn. 926 (1994). (Emphasis added). Strategy is defined as "a careful plan or method and the art of devising or employing plans or stratagems toward a goal. … Negotiations is a broad term … but in general it means the deliberation which takes place between the parties touching a proposed agreement." (Citations omitted; internal quotation marks omitted.) Id., 390.

38. Based on the foregoing, and after a careful, in camera inspection, it is found that the respondents failed to prove that the in camera records are exempt from disclosure, in their entirety, pursuant to §1-210(b)(9), G.S. See New Haven, supra, 205 Conn. 775. It is also found that IC-2023-0242-3 lines 4-13 do not contain "strategy" or "negotiations," within the meaning of §1-210(b)(9), G.S. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to §1-210(b)(9), G.S.[6]

§1-210(b)(4), G.S.

39. Next, the respondents contended that IC-2023-0242-1 through IC-2023-0242-4 are exempt from disclosure pursuant to §1-210(b)(4), G.S., which provides that disclosure is not required of "records pertaining to strategy and negotiations with respect to pending claims or pending litigation to which the public agency is a party until such litigation or claim has been finally adjudicated or otherwise settled."

40. Section 1-200(8), G.S., defines a pending claim as:

> a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action in an appropriate forum if such relief or right is not granted.

41. Section 1-200(9), G.S., defines pending litigation as:

> (A) a written notice to an agency which sets forth a demand for legal relief or which asserts a legal right stating the intention to institute an action before a court if such relief or right is not granted by the agency; (B) the service of a complaint against an agency returnable to a court which seeks to enforce or implement legal relief or a legal right; or (C) the agency's consideration of action to enforce or implement legal relief or a legal right.

42. As already explained in paragraph 37, above, strategy is defined as "a careful plan or method and the art of devising or employing plans or stratagems toward a goal. … Negotiations is a broad term … but in general it means the deliberation which takes place between the parties touching a proposed agreement." Bloomfield Educ. Ass'n., supra, 35 Conn. App. 390.

43. Based on the foregoing, and after a careful, in camera inspection, it is found that the respondents failed to prove that the in camera records pertain to "strategy and negotiations,"

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[6] The Commission notes that even if the discussion had constituted strategy and/or negotiations, the Commission has held that strategy and negotiations with respect to collective bargaining do not come within the purview of §1-200(6), G.S., and therefore, are not the proper subject for executive session. See Nancy Beckwith v. Board of Directors, Poquonnock Bridge Fire District; and Poquonnock Bridge Fire District, Docket No. FIC 2012-466 (April 10, 2013); Mark J. Anderson, Suzanne Simoneau and The Bristol, Press v. Chairman, Bristol Housing Authority; and Bristol Housing Authority, Docket No. FIC 88-87 (May 31, 1988); John Gallo v. Town of Windsor Locks; and the Board of Finance of the Town of Windsor Locks, Docket No. FIC 1978-065, 066, 073 (August 23, 1978). Such a discussion is also not considered a meeting within the meaning of the FOI Act, and therefore, such discussion is not required to be conducted in an open meeting. See §1-200(2), G.S.

within the meaning of §1-210(b)(4), G.S. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to §1-210(b)(4), G.S.

§1-210(b)(10), G.S.

44. With respect to the respondents' contention that IC-2023-0242-1 through IC-2023-0242-4 are exempt from disclosure pursuant to §1-210(b)(10), G.S., such exemption provides, in relevant part, that nothing in the FOI Act requires the disclosure of "[r]ecords, … exempted by federal law or the general statutes or communications privileged by the attorney-client relationship, … or any other privilege established by the common law or the general statutes…."

45. In their brief, the respondents argued generally that disclosure of the in camera records "may allow a reader to gather information otherwise protected by statutory exemption" and that "the complete disclosure of the [in camera records] would amount to the dissemination of statutorily exempted material." At the hearings, the respondents failed to present evidence regarding the applicability of any of the privileges set forth in §1-210 (b)(10), G.S., to the in camera records, in their entirety. See New Haven, supra, 205 Conn. 775.

46. Based on the foregoing and after a careful, in camera inspection, it is found that the respondents failed to prove that the in camera records are exempt from disclosure pursuant to §1-210(b)(10), G.S. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to §1-210 (b)(10), G.S.

§1-210(b)(19), G.S.

47. Next, the respondents contended that IC-2023-0242-1 through IC-2023-0242-4 are exempt from disclosure pursuant to §1-210(b)(19), G.S.

48. Section 1-210(b)(19), G.S., provides, in relevant part, that, the FOI Act shall not require disclosure of:

> Records when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person, any government-owned or leased institution or facility or any fixture or appurtenance and equipment attached to, or contained in, such institution or facility, except that such records shall be disclosed to a law enforcement agency upon the request of the law enforcement agency. *Such reasonable grounds shall be determined . . . (B) by the Chief Court Administrator with respect to records concerning the Judicial Department. . . .*(Emphasis added.)

49. It is found that, at the time of the second hearing in this matter, no consultation with the Chief Court Administrator as to whether there were "reasonable grounds" to believe that disclosure of the requested records may constitute a safety risk, within the meaning of §1-210(b)(19), G.S., had occurred. It is found that, instead, the respondents counsel, determined that

there were "reasonable grounds" to believe that disclosure of the in camera records may result in a safety risk. It is also found that, as of the date of the second hearing, nearly one year had passed since the respondents received the complainant's request for records, and the respondents had yet to engage in any consultation with the Chief Court Administrator with regard to this request.

50. It is therefore found that the respondents failed to prove that the in camera records are exempt from disclosure pursuant to §1-210(b)(19), G.S. Accordingly, it is concluded that the in camera records are not exempt from disclosure pursuant to §1-210(b)(19), G.S.

51. It is therefore concluded that, with the exception of IC-2023-0242-3 lines 22-35 and IC-2023-0242-4 lines 36-40, the respondents violated the disclosure provisions of the FOI Act by denying the respondents' request for the in camera records.

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

1. Within 14 days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainant with a copy of the in camera records, free of charge. The respondents may redact IC-2023-0242-3 lines 22-35 and IC-2023-0242-4 lines 36-40.

2. Within 14 days of the date of the Notice of Final Decision in this matter, the respondents shall contact the Commission to schedule a training session, to be conducted by a staff member of the Commission on a date thereafter. The Commission urges the respondents' counsel to attend such training.

3. Henceforth, the respondents shall strictly comply with the disclosure provisions of the FOI Act.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 10, 2024.

Jennifer M. Mayo
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:

BRUNO MATARAZZO JR., c/o Attorney Thomas G. Parisot, Secor, Cassidy & McPartland, P.C., 41 Church Street, Waterbury, CT 06702

CHIEF PUBLIC DEFENDER, STATE OF CONNECTICUT, DIVISION OF PUBLIC DEFENDER SERVICES; STATE OF CONNECTICUT, DIVISION OF PUBLIC DEFENDER SERVICES; CHAIR, STATE OF CONNECTICUT, PUBLIC DEFENDER SERVICES COMMISSION; AND STATE OF CONNECTICUT, PUBLIC DEFENDER SERVICES COMMISSION, c/o Attorney David Block, Boyle Shaughnessy Law, 280 Trumbull Street, Hartford, CT 06103

Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2023-0242/FD/JMM/April 10, 2024