

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joseph Stephenson,

Complainant

against

Docket # FIC 2020-0176

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

Respondents

August 13, 2025

The above-captioned matter was heard as a contested case on January 14, 2021, and April 12, 2021, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹ At the time of the request and the hearings, the complainant was incarcerated in a correctional facility of the State Department of Correction.

On June 4, 2021, the respondents filed a motion with the Commission, requesting to amend the record to include an after-filed exhibit, consisting of a letter, dated June 4, 2021, and several pages of redacted records that were provided to the complainant following the April 12, 2021, hearing in this matter. The hearing officer granted the respondents' request and admitted the after-filed exhibit as Respondents' Exhibit 3 (after-filed): Letter, dated June 4, 2021, with enclosures.

By letter dated July 9, 2021, and received by the Commission on July 19, 2021, the complainant notified the Commission that he objected to the respondents' withholding of information contained in Respondents' Exhibit 3 (after-filed). Therefore, the hearing officer ordered the respondents to submit to the Commission an unredacted copy of such records for in camera inspection. Thereafter, the respondents delivered the records to the Commission for in camera inspection.

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

On the Index that accompanied the in camera records, the respondents claimed that the information redacted from the in camera records is exempt from disclosure pursuant to § 1-210(b)(18), G.S. The hearing officer subsequently ordered the respondents to submit an affidavit in support of their claims of exemption. The respondents filed an after-filed exhibit, which was admitted by the hearing officer as Respondents' Exhibit 4 (after-filed): Affidavit of Correctional Counselor Supervisor A. Campanelli.

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 February 5, 2020, the complainant requested a copy of “any and all disclosable information, documents, records, etc., regarding Dept. of Correction involvement with Immigration and Customs Enforcement (ICE) and the Department of Homeland Security (DHS),” including:

- (a) The Connecticut Trust Act (Public Act 19-20 and 19-23);
- (b) DOC and Offender Classification and Population Management (OCPM) Policies, Practices and Procedures regarding ICE detainers. (Please include any past and current memorandums, training, revisions, guidelines and legal basis for such policies etc., regarding DOC/OCPM involvement with ICE/DHS, ICE detainer review process);
- (c) Any and all monthly reports and data collection related to ICE detainers, detention, and release of ICE detainees and inmates having ICE detainers as tracked by the director of OCPM; any public audits and audit reports; and
- (d) Any and all documents, agreements, and contracts cooperation mutual understandings, etc., signed or made between the DOC and ICE/DHS.

3. It is found that, by letter dated March 3, 2020, the respondents acknowledged that they received the complainant’s request on February 13, 2020, but denied such request. It is found that the respondents provided the following reasoning for their denial:

Your request is denied per the Code of Federal Regulations section 236.6 as a state agency is precluded from disclosing any information dealing with ICE or homeland security. As far as your request for the ‘Public Trust Act’, this request cannot be processed through my office, as it is not a Department of Correction created document.

4. By complaint filed April 7, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for public records. The complainant requested that the Commission issue a civil penalty against the respondents.²

5. At the time of the request, §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, 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 ... receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part: “[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 concluded that the records requested by the complainant are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing, the complainant contended that the respondents failed to provide him with copies of all records responsive to his request in a prompt manner.

10. It is found that on or about September 9, 2020, following receipt of the Order to Show Cause in this matter, the respondents’ FOI Administrator reviewed the complainant’s request and conferred with counsel about whether any responsive records could be provided to the complainant.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction.

³ Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to include data or information that is “videotaped.” Such amendment was effective June 23, 2021.

11. It is found that, after speaking with counsel, the respondents' FOI Administrator requested a search for responsive records. It is found that staff within multiple units of the respondent Department of Correction searched for responsive records in locations where such records were reasonably believed to be maintained.

12. It is found that, by letter dated January 11, 2021, the respondents notified the complainant that they had conducted a search, and that they located records responsive to his request. It is found that the respondents provided the complainant with copies of records responsive to the requests described in paragraphs 2(a) and 2(b), above, free of charge. It is found that the respondents also notified the complainant that they did not locate any records responsive to the requests described in paragraphs 2(c) or 2(d), above.

13. Notwithstanding, it is found that, subsequent to the second hearing date in this matter, the respondents commenced an additional search and located records responsive to the request described in paragraph 2(c), above. It is further found that, on or about June 4, 2021, the respondents provided redacted copies of such records to the complainant, free of charge.

14. By letter dated July 9, 2021, and received by the Commission on July 19, 2021, the complainant objected to the respondents withholding the redacted information described in paragraph 13, above. Therefore, the hearing officer ordered the respondents to submit unredacted copies of such records for in camera inspection. Such records are hereinafter referred to as IC-2020-0176-001 through IC-2020-0176-134.

15. With respect to the redacted information contained in the in camera records, such information consists of the first and last names of inmates, and inmate numbers. The respondents contended that such information is permissibly exempt from disclosure pursuant to § 1-210(b)(18)(G), G.S.

16. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of:

[r]ecords, the disclosure of which the Commissioner of Correction . . . has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction...Such records shall include, but are not limited to:

...

(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities....

17. In Commissioner, Department of Correction v. FOI Commission, Superior Court, Judicial District of New Britain, Docket Nos. CV074015438 and CV084016766 (November 3, 2008), the court reversed the Commission's determination that the Department of Correction

failed to prove that disclosure of certain records may result in a safety risk. According to the court:

the commissioner of DOC and his staff certainly have the experience to know when a particular request will result in a safety risk. Having received the reasons given by the DOC for declining to make the record available, the FOIC is not free to reject DOC's reasons because they are "hypothetical" and not based on actual events. The FOIC's role is to determine whether the DOC's reasons were pretextual and not bona fide, or irrational.

18. The Commission has previously determined that the Commissioner of Correction has reasonable grounds to believe that disclosure of information about other inmates, including inmate name and number, may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional facility. See e.g., Docket #FIC 2012-691; Andres Sosa v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction (Oct. 9, 2013); Docket #FIC 2010-061; Robin Elliott v. Warden, State of Connecticut, Department of Correction, Northern Correctional Institution; and State of Connecticut, Department of Correction (Jan. 13, 2011); Docket #FIC 2008-507; Robin Elliott v. Commissioner, State of Connecticut, Department of Correction; Warden, State of Connecticut, Department of Correction, Corrigan-Radgowski Correctional Institution; and State of Connecticut, Department of Correction (July 20, 2009).

19. It is found that the in camera records contain information related to inmates, other than the complainant, including inmate name, number, release date, and reason for detention. It is found that the respondents have a policy of prohibiting inmates from obtaining information about other inmates due to safety and security concerns, such as the potential for inmates' use of the information to blackmail or to harass, threaten, or bribe. It is also found that the in camera records constitute a log about the movement or assignment of inmates within a correctional institution.

20. Based upon the foregoing, and a careful review of the in camera records, it is found that the Commissioner of Correction had reasonable grounds to believe that disclosure of inmate names and numbers contained in the in camera records may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction. It is further found that the reasons given are bona fide, and not pretextual or irrational.

21. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding the inmate names and numbers contained in IC-2020-0176-001 through IC-2020-0176-134 from the complainant.

22. With respect to the contention that the respondents failed to provide all records responsive to the complainant's request, based on the credible testimony of the respondents' witness, it is found that the respondents conducted a reasonable and diligent search and provided

the complainant with a copy of all records responsive to the requests described in paragraphs 2(a), 2(b), and 2(d), above, that they maintain.

23. However, with respect to the complainant's contention that the respondents did not provide him with a copy of all records responsive to the request described in paragraph 2(c), as already found in paragraph 13, above, subsequent to the second hearing in this matter, the respondents searched for and located records responsive to the request described in paragraph 2(c), above, and thereafter provided redacted copies of such records to the complainant.

24. It is found that the respondents did not submit evidence regarding the reason for the additional search, the nature and scope of the search, or whether such records constitute all of the records that the respondents maintain that are responsive to the complainant's request described in paragraph 2(c), above.

25. Because of the foregoing, it is found that the respondents failed to prove that they conducted a reasonable and diligent search and provided all records responsive to the request described in paragraph 2(c), above.

26. It is therefore concluded that the respondents violated the disclosure requirements in §§1-210(a) and 1-212(a), G.S., with respect to the request described in paragraph 2(c), above.

27. Finally, the complainant contended that the respondents did not disclose records to him promptly.

28. 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), the Commission advised that the word "promptly," as used in §1-210(a), G.S., means "quickly and without undue delay, taking into consideration all of the factors presented by a particular request." As the court recognized in Commissioner of Department of Emergency Services and Public Protection v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. HHB-CV-18-6047741 (July 20, 2020) *6, a public agency should consider its obligations under the FOI Act as a "primary duty" of that agency, "on par with the [agency's] other significant duties, or said another way, that the agency's FOIA duty is not a second class duty."

29. It is found that the respondents did not act quickly and without undue delay in providing the complainant with copies of records responsive to his request. As already found herein, nearly a year passed before any responsive records were provided to the complainant, and five months later, copies of additional responsive records were provided. In their motion to amend, the respondents conceded that the records provided to the complainant on June 4, 2021 should have been provided to him with the first disclosure of responsive records on January 11, 2021.

30. It is therefore concluded that the respondents violated the promptness requirements of §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

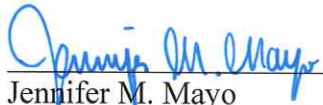
31. Notwithstanding the conclusions in paragraphs 26 and 30, above, the Commission declines to consider the imposition of a civil penalty in this matter.

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

1. Within 150 days of the date of the Notice of Final Decision in this matter, the respondents shall commence a search for records responsive to the request described in paragraph 2(c) of the findings, above, and provide the complainant with copies of any responsive records which have not already been provided, free of charge. If the respondents do not locate additional responsive records, the respondents shall provide the complainant with an affidavit setting forth their determination and reasoning in support thereof.

2. Henceforth, the respondents shall strictly comply with the promptness and disclosure requirements of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 13, 2025.



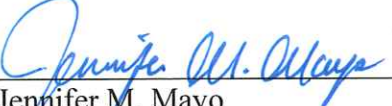
Jennifer M. Mayo
Acting Clerk of the Commission

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:

JOSEPH STEPHENSON, #155049, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION;
AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Jennifer Lepore, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109


Jennifer M. Mayo
Acting Clerk of the Commission