

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jennifer Malloy,

Complainant

against

Docket #FIC 2024-0838

Thomas Conlan, Chief, Police Department,
Town of Wilton; Police Department,
Town of Wilton; and Town of Wilton,

Respondents

August 13, 2025

The above-captioned matter was heard as a contested case on April 30, 2025, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After the contested case hearing on this matter, by order of the hearing officer, the respondents submitted an after-filed exhibit, which has been admitted into evidence, over the complainant's objection, and marked as follows: Respondents' Exhibit 2 (after-filed): affidavit of Police Officer Melissa LaPak, signed May 15, 2025, with one attachment.¹

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 email dated December 2, 2024, the complainant requested copies of "any and all records in connection with LaPak's 8/1/23 'anonymous' assertion and/or any and all records related to this referenced conversation/consultation/phone call/electronic correspondence in whatever form these records exist and in whatever form these records were made." It is also found that the complainant's records request refers to a consultation between Police Officer Melissa LaPak ("Officer LaPak") and an employee of the Freedom of Information ("FOI") Commission that occurred in 2023.
3. It is found that, by email dated December 3, 2024, the respondents acknowledged the complainant's records request.

¹ The Commission notes that in response to the submission of Respondents' Exhibit 2, the complainant moved to reopen the hearing on the above-captioned matter, which motion was denied by the hearing officer.

4. By letter of complaint, dated and filed December 16, 2024, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide the records described in paragraph 2, above. The complainant also requested the imposition of a civil penalty against the respondents.

5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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 ... (3) 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 requested records, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing on this matter, the respondents represented that Officer LaPak had a telephone conversation, on or around August 1, 2023, with FOI Commission staff and that there are no responsive records related to such telephone conversation. The respondents also submitted an affidavit of Officer LaPak in which she attested that such telephone conversation occurred on or around August 1, 2023. Officer LaPak also attested, and it is found, that she conducted a diligent and thorough search for any “written, electronic or recorded audio or video record of [her] direct contact” with the FOI Commission and did not locate any such record.

10. The complainant argued that there should be a record of the telephone conversation described in paragraph 9, above, and testified that she was seeking both the substance of that telephone conversation and the date and time that such telephone conversation occurred.

11. Based upon the complainant’s testimony described in paragraph 10, above, the hearing officer inquired as to whether the respondents maintain telephone call logs indicating the

date and time of such telephone conversation and ordered the respondents to produce an affidavit related to the respondent Police Department's retention policies and procedures.

12. It is found that, on May 15, 2025, the respondents submitted Respondents' Exhibit 2, which includes a second, signed affidavit of Officer LaPak ("second affidavit") and a screenshot of a telephone call log establishing that Officer LaPak called the FOI Commission on June 15, 2023, and received a telephone call from the Commission on June 16, 2023. It is also found that in second affidavit, Officer LaPak attests that these were the telephone calls related to the complainant's records request and such screenshot was produced in an effort to be "as transparent as possible."

13. It is found that the respondents' interpretation of the complainant's records request, described in paragraph 2, above, as a request for copies of substantive records or recordings related to Officer LaPak's conversation with the FOI Commission, rather than for a screenshot establishing when a telephone conversation occurred, was reasonable. It is also found that once it became clear, at the hearing on this matter, that the complainant was requesting records establishing when the telephone conversation occurred, the respondents produced such record within fifteen days.

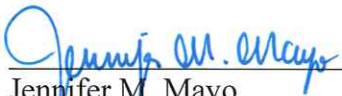
14. Based upon all of the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

15. Accordingly, the complainant's request for a civil penalty need not be addressed.

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

1. The complaint is dismissed.

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

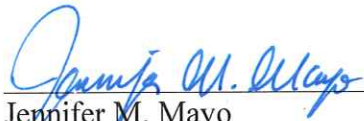

Jennifer M. Mayo
Acting Clerk of the Commission

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:

JENNIFER MALLOY, 364 Belden Hill Road, Wilton, CT 06897

**THOMAS CONLAN, CHIEF, POLICE DEPARTMENT, TOWN OF WILTON;
POLICE DEPARTMENT, TOWN OF WILTON; AND TOWN OF WILTON, c/o
Attorney Nicholas R. Bamonte, Berchem Moses PC, 1221 Post Road East, Westport, CT
06880**



Jennifer M. Mayo
Acting Clerk of the Commission