

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Ward,

Complainant

against

Docket #FIC 2024-0094

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

January 22, 2025

The above-captioned matter was heard as a contested case on October 18, 2024, at which time the respondents appeared. The complainant, who is incarcerated, did not appear at such contested case hearing as he had been transferred to a different facility which was unable to accommodate the complainant's participation in the hearing. A continued hearing was held on December 20, 2024, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The complainant appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Corrections. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC et al. Superior Court, J.D. of Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.). A second continued hearing was held on January 7, 2025, at which time the complainant and the respondents appeared. However, the complainant terminated the call shortly after that hearing began.¹

¹At the second continued hearing, the complainant indicated that: (i) he was not aware that such hearing had been scheduled for 11:00 am on January 7, 2025; and (ii) if he did not leave the call, he could face disciplinary repercussions. The Commission's records show that on December 20, 2024, Commission staff contacted the Counselor Supervisor/FOI Administrator for the Department of Corrections inquiring if they could accommodate an 11:00am hearing on January 7, 2025. On December 23, 2024, the Counselor Supervisor/FOI Administrator responded indicating that she had spoken to the facility where the complainant was incarcerated and that they could accommodate the second continued hearing. On December 30, 2024, the Commission sent its Notice of Continued In-Person Hearing to the parties via email and regular mail. On January 2, 2025, the Counselor Supervisor/FOI Administrator confirmed her receipt of the email containing the Notice of Continued In-Person Hearing and informed the Commission that the notice had been forwarded to the facility to be provided to the complainant. Additionally, tracking information for the copy of the notice that was physically mailed shows that it was delivered on January 3, 2025. The sole purpose for the second continued hearing was to allow the complainant an opportunity

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 on January 14, 2024, the complainant submitted a request to the respondents seeking the following:
 - a. “One copy of each Public Record(s) spoken or written about by Commissioner Ronnell Higgins, Commissioner of [DESPP], in a letter to Attorney [Burt] Rosenberg on the date of November 15, 2023.” (Hereinafter, Commissioner Higgin’s determination letter.”)
 - b. “[I]ncident reports listed for . . but not limited to, December 19, 2018, April 13, 2021, December 20, 2021, April 17, 2022, May 3, 2022, November 26, 2019. . . September 12, 2019, November 29, 2019, December 3, 2019, May 27, 2023, August 26, 2018 and June 9, 2019 – Sargent Sullivan, SVU Supervisor – Retired.”
 - c. “[A]ny Body Camera Footage/Video or Audio Recordings for [the dates listed in paragraph 2.b., above.]”
3. It is found that on January 16, 2024, the respondents informed the complainant that they had received, and would begin working on, his January 14 request.
4. It is found that on January 23, 2024, the complainant amended his request to include “the full thread email from Commissioner Higgins to Attorney Rosenberg, sent on or around 11.30.2023, noting a determination had been made by the Commissioner of DESPP to Attorney Rosenberg’s request to the Commissioner of DESPP to be a newly added Respondent in FIC#2023-0346.” Hereinafter, the January 23 amended request.
5. It is found that the respondents replied to the complainant that same day indicating that they had received the complainant’s amended request.

to complete his cross-examination of the respondents’ witness. The Commission notes that, despite not finishing his cross-examination, the complainant was afforded a full 90-minute hearing, wherein he was able to submit exhibits, provide direct testimony, and conduct a significant portion of his cross-examination. Furthermore, as noted in paragraphs 25 and 28, below, the Commission has already fully adjudicated a previous case brought by the complainant stemming from the exact same facts in Docket #FIC 2024-0057, Michael Ward v. Ronnell Higgins, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection et al (December 18, 2024). Pursuant to the Commission’s regulations, the parties are afforded the opportunity to conduct cross-examination to the extent that “the presiding officer [finds it] to be required for a full and true disclosure of facts.” Regs. Conn. State Agencies § 1-21j-37(c). Given the ample evidence in the administrative record the Hearing Officer finds that additional cross-examination by the complainant would not be required for a full and true disclosure of facts. Moreover, based on the cross-examination conducted by the complainant during the first continued hearing, the Hearing Officer finds that any further cross-examination would yield only irrelevant, immaterial, or unduly repetitious evidence which, as a matter of policy, the Hearing Officer is *required* to exclude. See Regs. Conn. State Agencies § 1-21j-37(a).

6. It is found that on January 29, 2024, the respondents disclosed the following records to the complainant (hereinafter, the “January 29 disclosure”):

- a. A partially redacted incident report from the City of Stamford Police Department (“CSPD”) dated December 19, 2018.
- b. An unredacted police report from the CSPD dated September 12, 2019, with supplemental reports dated November 11, 2019, and December 3, 2019.
- c. An unredacted police report from the CSPD dated May 27, 2023.
- d. Email correspondence between Attorney Kimberly Zigich and Attorney Burt Rosenberg on November 29, 2023.

7. By letter of complaint received and filed on February 14, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide all records responsive to his January 14 request and January 23 amended request.

8. 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.

9. 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.

10. 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.”

11. It is concluded that the records described in paragraphs 2 and 4, above, to the extent that they exist and are maintained by the respondents are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

12. The complainant alleges that the respondents failed to provide all of the incident reports, body-camera footage, and audio records he sought in his January 14 request.

13. It is found that the incident reports, body-camera footage, and audio recordings requested by the complainant were created by the CSPD.

14. It is found that the respondents came into possession of *some* of the incident reports responsive to the January 14 request when the CSPD forwarded such reports to the respondents for the purpose of obtaining a determination letter from the Commissioner of Emergency Services and Public Protection pursuant to §1-210(b)(19), G.S.

15. The respondents testified and it is found, that the only incident reports they received from the CSPD were those identified in paragraph 6, above.

16. Moreover, it is found that the CSPD did not provide the respondents with any of the body-camera footage or audio recordings sought by the complainant in his January 14 request.

17. It is found, therefore, that the respondents do not maintain: (i) any CSPD incident reports other than those listed in paragraph 6, above; nor (ii) any CSPD body-camera footage or audio recordings sought by the complainant in his January 14 request.

18. It is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), with respect to the records identified in paragraph 17, above.

19. Next, the complainant alleges that the respondents did not send him the full email thread from DESPP Commissioner Higgins to Attorney Rosenburg in response to his January 23 amended request.

20. The respondents testified and it is found that the email in paragraph 6.d., above, is the only record they maintain that is responsive to the complainant's January 23 amended request as any other communication on the relevant subject occurred either orally or between different individuals.

21. Accordingly, it is found that the respondents do not maintain any records responsive to the complainant's January 23 amended request.

22. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the records sought in the complainant's January 23 amended request.

23. Finally, the complainant: (i) alleges that the respondents failed to disclose Commissioner Higgin's November 15, 2023 determination letter; and (ii) challenges the respondents' redactions to the December 19, 2018 CSPD incident report.

24. The Commission takes administrative notice of the record and final decision in Docket #FIC 2024-0057, Michael Ward v. Ronnell Higgins, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection et al (December 18, 2024) (hereinafter "Ward 1").

25. It is found that Ward 1 stems from the same underlying facts as the matter currently before the Commission. Both cases relate to the complainant's January 14 request, January 23 amended request, and the respondents' January 29 disclosure of records to the complainant.

26. In Ward 1, the Commission found that: (i) the respondents provided a copy of Commissioner Higgin's determination letter as part of their January 29 disclosure; and (ii) the complainant acknowledged that he received a copy of that letter. See Ward 1, ¶ 13.

27. Moreover, it is found that the Commission in Ward 1 considered and ruled on the same redactions made to the December 19, 2018 CSPD incident report at issue herein.²

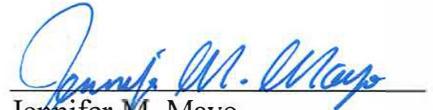
28. The Commission therefore adopts its findings of fact and conclusions of law in Ward 1 insofar as they relate to: (i) the respondents' disclosure of Commissioner Higgin's determination letter; and (ii) the redactions made to the December 19, 2018 CSPD incident report.

29. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to either record.

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 January 22, 2025.


Jennifer M. Mayo
Acting Clerk of the Commission

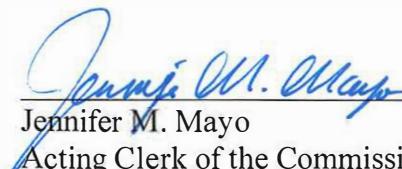
² Pursuant to an order of the Hearing Officer dated January 7, 2025, the respondents submitted the December 19, 2018 CSPD incident report to the Commission for in camera inspection along with an Index of Records Submitted for In Camera Inspection ("In Camera Index"). The In Camera Index submitted by the respondents in both Ward 1 and the instant matter assert the same basis for the redactions made to the December 19, 2018 CSPD incident report. In Ward 1, the Commission found that "the names and addresses of MT and the minor child are permissively exempt from disclosure pursuant to §1-210(b)(3)(G), G.S. In addition, the Commission decline[d] to order disclosure of the other personally identifying information redacted from the December 19th incident report, as it could potentially identify MT and the minor child."

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:

MICHAEL WARD, #433227, Robinson Correctional Institution, 285 Shaker Road, PO Box 1400, Enfield, CT 06082

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney Kimberly Zigich, Department of Emergency Services and Public Protection, 1111 Country Club Road, Middletown, CT 06457



Jennifer M. Mayo
Jennifer M. Mayo
Acting Clerk of the Commission