

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ira Alston,

Complainant

against

Docket #FIC 2024-0385

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

Respondents

June 11, 2025

The above-captioned matter was heard as a contested case on November 8, 2024, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon J.).

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. This matter arises in the aftermath of a prior final decision in Docket #FIC 2022-0452, Ira Alston v. Karl Jacobson, Chief, Police Department, City of New Haven et al. (September 13, 2023) (“Docket #FIC 2022-0452”). The Commission takes administrative notice of the final decision in Docket #FIC 2022-0452, and specifically:
 - a. The complainant in Docket #FIC 2022-0452 is the same complainant in the instant matter;
 - b. Docket #FIC 2022-0452 involved the complainant’s request to the New Haven Police Department for copies of the audio recordings of all witness statements contained in police case files 99-76967 and 99-76968.
 - c. The Commission ordered the New Haven Police Department to “provide an unredacted copy of the in camera records in compact disc [(“CD”)] form to the Department of Correction’s [Freedom of Information (“FOI”)]

Administrator, in accordance with §1-210(c), G.S., and the policy of the Department of Correction (i.e., the respondents in the instant matter).

3. It is found that on April 5, 2024, the respondents informed the complainant that: (i) they had received a CD containing audio files for case number 99-076967 from the New Haven Police Department (“NHPD”) on April 4, 2024; (ii) he was not permitted to have the CD in his possession per Administrative Directive 6.10, Inmate Property, because he does not possess a CD player and, therefore, did not have a means to access the audio files; and (iii) while he could not have the CD in his possession, they could mail the CD to a legal representative or family member at his request.

4. It is found that on April 10, 2024, the complainant sent an “Inmate Request Form” to his facility’s FOI Liaison requesting that they provide him with the CD sent to the respondents by the NHPD containing the audio files for case number 99-076967.

5. It is found that on April 30, 2024, the complainant filed an inmate grievance, wherein he: (i) indicated that he had not received a reply to his inmate request filed on April 10, 2024; and (ii) requested that the relevant CD be forwarded to him promptly.

6. It is found that the respondents received the complainant’s grievance on May 1, 2024, and rejected it on June 13, 2024, noting that denial of records requests were not grievable matters under the respondents’ administrative directives.

7. By letter of complaint received and filed on July 1, 2024, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act, by withholding the CD described in paragraph 3, above.

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. The Commission previously considered the issue presented herein (i.e., whether the respondent Department of Correction may refuse to provide a physical CD to an inmate once it is classified as contraband) in Docket #FIC 2020-0073, Jan Gawlik v. Commissioner, State of Connecticut, Department of Correction et al. (January 13, 2021) (“Gawlik”).

12. In Gawlik, the Commission found that:

the CD was withheld not because of the content [contained on the CD], but rather, because of the method of delivery of such information (i.e., the CD itself) . . . [which,] as a method of delivery of information, is not a public record.

...

[T]he respondents withheld the CD containing the requested public records based on the department’s Administrative Directive . . . relating to the prohibition on contraband. According to the respondents, a CD/DVD is considered contraband because it can be broken and used as a weapon . . . [I]nmates are prohibited from having blank CDs in their cells, and further are prohibited from possessing CDs containing information they requested directly pursuant to the FOI Act, because they do not have the means to view the information contained on CDs in their cells.

...

It is clear. . . that the controversy that exists between the parties . . . is whether the respondents appropriately and fairly enforced the department’s administrative directive prohibiting inmates from possessing certain CDs in their cells, when they withheld the CD from the complainant. It is equally clear that this Commission lacks jurisdiction to weigh in on that controversy. . . .

Id., at ¶¶ 11-12.

13. It is concluded, therefore, that while the contents of the CD identified in paragraph 3, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S., the physical CD is not.

14. It is found that, as in Gawlik, the respondents withheld the CD from the complainant, not because of its contents, but because the physical CD was determined to be contraband pursuant to its administrative directives and the inmate's inability to access the contents of the CD.¹

15. The respondents testified, and it is found, that if the complainant had the means to access the contents of the CD (e.g., a CD player in his cell), it would no longer be classified as contraband and he could have it in his cell. Moreover, it is found that the complainant could authorize a legal representative or family member to take possession of the CD on his behalf.

16. It is found, therefore, that as in Gawlik, the respondents in the instant matter did not withhold the CD because of its contents, but because the physical CD (without the means to access its contents) is deemed by the respondents as contraband.

17. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by withholding the physical CD, which is not a public record, as described in paragraph 3, above, pursuant to their administrative directives.

18. While the complainant raises a number of arguments concerning whether the respondents appropriately and fairly enforced their administrative directives, such issues are outside of the Commission's jurisdiction and may be more appropriate for an inmate grievance.²

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

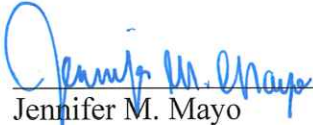
1. The complaint is dismissed.

2. The Commission notes that the spirit of the FOI Act is predicated on a "policy favoring disclosure. . . ." Perkins v. Freedom of Info. Comm'n., 228 Conn. 158, 167 (1993). Although, technically speaking, the respondents did not deny access to a public record, the concerning reality of the situation is that the complainant has not been able to access the contents of the CD, which is a public record. While the Commission cannot compel the respondents to provide the complainant a copy of the CD, it strongly encourages the respondents to establish a procedure to accommodate inmates who do not have access to a media player.

¹ Specifically, the respondents cite Administrative Directive 6.10.3.b.(2), which defines "contraband" as "[a]n item . . . that is authorized, but used in an unauthorized or prohibited manner." The Commission takes administrative notice of Administrative Directive 6.10.

² Generally, the complainant argues that: (i) Administrative Directive 6.10 does not specifically classify CDs as contraband; and (ii) he has previously been permitted to possess CDs in his cell despite his lack of means to access their contents.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 11, 2025.



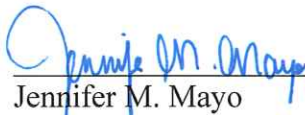
Jennifer M. Mayo
Acting Clerk of the Commission

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:

IRA ALSTON, #275666, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION;
AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney
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Jennifer M. Mayo
Acting Clerk of the Commission