

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Tyrell Brown,

Complainant

against

Docket #FIC 2024-0396

Matthew Marino, Chief, Police Department,  
City of New Britain; Police Department,  
City of New Britain; and City of New  
Britain,

Respondents

June 25, 2025

The above-captioned matter was heard as a contested case on February 5, 2025 and March 26, 2025, at which times the complainant and the respondents appeared, stipulated to certain facts 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. It is found that, by form dated July 1, 2024, the complainant requested copies of various records related to a criminal arson investigation, including: the “[o]riginal 911 call from Angela Damico approximately at 8:45pm”.
3. It is found that, by letter dated July 9, 2024, the respondents acknowledged the complainant’s request.
4. By letter of complaint, received and filed July 10, 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 are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that, at the time of the complainant’s request, described in paragraph 2, above, the respondents had an outstanding arrest warrant and were actively pursuing the arrest of a suspect for the same underlying crime, of which the complainant was seeking public records. It is also found that, by email dated July 30, 2024, the respondents informed the complainant that they were claiming all responsive records as exempt from disclosure pursuant to §1-210(b)(3)(D), G.S., as information to be used in a prospective law enforcement action.<sup>1</sup>

10. It is found that, by email dated December 16, 2024, the respondents informed the complainant that a suspect had been arrested on or around December 4, 2024, and that there was now a pending prosecution regarding the underlying crime. It is also found that, once such suspect was arrested, the respondents provided certain responsive records to the Department of Correction to be provided to the complainant.

11. By letter dated December 18, 2024, and during the contested case hearings on this matter, the complainant asserted that only the “911 audio that was made by Angela Damico

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<sup>1</sup> The Commission notes that although the respondents initially denied the complainant’s request for records pursuant to §1-210(b)(3)(D), G.S., the respondents abandoned this claim before the Commission. While the records at issue in this matter may have been exempt from disclosure, pursuant to §1-210(b)(3)(D), G.S., at the time of the respondents’ initial denial on July 30, 2024, the respondents failed to prove such exemption before this Commission. Nevertheless, due to the findings and conclusions in paragraphs 10 through 18, below, the Commission need not address the applicability of §1-210(b)(3)(D), G.S., to the present matter.

approximately at 8:45 PM” (“audio call”) was still at issue in this case. Therefore, the Commission need not further address any other responsive records herein.

12. By letter dated January 6, 2025, and during the contested case hearings on this matter, the respondents informed the complainant that, pursuant to §1-215, G.S., the respondents would not provide the audio call described in paragraphs 2 and 11, above, during the pending prosecution of the suspect arrested on or around December 4, 2024.

13. Section 1-215, G.S., provides, in relevant part, as follows:

(a) For the purposes of this section, ‘record of the arrest’ means

(1) the name, race and address of the person arrested, the date, time and place of the arrest and the offense for which the person was arrested, and

(2) in addition, in a case in which (A) the arrest has been by warrant, the arrest warrant application, including any affidavit in support of such warrant, or (B) the arrest has been made without a warrant, the official arrest, incident or similar report, provided if a judicial authority has ordered any such affidavit or report sealed from public inspection or disclosure, in whole or in part, the portion of the affidavit or report that has not been sealed, if applicable, as well as a report setting forth a summary of the circumstances that led to the arrest of the person in a manner that does not violate such order. ‘Record of the arrest’ does not include any record of arrest of a juvenile, a record erased pursuant to chapter 961a or any investigative file of a law enforcement agency compiled in connection with the investigation of a crime resulting in an arrest.

(b) Notwithstanding any provision of the general statutes, and except as otherwise provided in this section, any record of the arrest of any person shall be a public record from the time of such arrest and shall be disclosed in accordance with the provisions of section 1-212 and subsection (a) of section 1-210. No law enforcement agency shall redact any record of the arrest of any person, except for (1) the identity of witnesses, (2) the name, address or other identifying information of any victim of sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, voyeurism under section 53a-189a, injury or risk of injury, or impairing of morals under section 53-21 or family violence, as defined in section 46b-38a, or of an attempt thereof, (3) specific information about the commission of a crime, the disclosure of which the law enforcement agency reasonably believes may prejudice a pending prosecution or a prospective law

enforcement action, or (4) any information that a judicial authority has ordered to be sealed from public inspection or disclosure. Any personal possessions or effects found on a person at the time of such person's arrest shall not be disclosed unless such possessions or effects are relevant to the crime for which such person was arrested.

(c) In addition, any other public record of a law enforcement agency that documents or depicts the arrest or custody of a person during the period in which the prosecution of such person is pending shall be disclosed in accordance with the provisions of subsection (a) of section 1-210 and section 1-212, unless such record is subject to any applicable exemption from disclosure contained in any provision of the general statutes.

(d) Any law enforcement agency receiving a request for a record described in subsection (c) of this section shall promptly provide written notice of such request to the office of the state's attorney for the appropriate judicial district where the arrest occurred. The state's attorney for such district shall be afforded the opportunity to intervene in any proceeding before the Freedom of Information Commission concerning such request.

(e) The provisions of this section shall only be applicable to any record described in this section during the period in which a prosecution is pending against the person who is the subject of such record. . . .

14. Section 1-215, G.S., exclusively governs law enforcement agencies' disclosure obligations under the FOI Act while a criminal prosecution is pending. In Commissioner of Public Safety v. Freedom of Information Commission, et al., 312 Conn. 513 (2014) ("Public Safety"), the Supreme Court interpreted §1-215, G.S., and ruled that during the pendency of a criminal prosecution, a law enforcement agency must disclose no more than basic police blotter information and one other piece of information, designated by the law enforcement agency: either a press release, the arrest or incident report, or other similar report of the arrest of a person. In response to Public Safety, the General Assembly enacted Public Act 15-164, *An Act Concerning the Disclosure of Arrest Records During a Pending Prosecution under the Freedom of Information Act*, which amended §1-215, G.S., by increasing law enforcement agencies' disclosure obligations under §1-215, G.S.

15. As set forth in paragraph 13, above, §1-215(b), G.S., requires only the disclosure of the "record of arrest" during a pending criminal prosecution.

16. It is found that at the time of the contested case hearings on this matter, there was a pending criminal prosecution of a suspect resulting from the same arson investigation of which the complainant is requesting the responsive audio call.

17. It is found that the requested audio call does not constitute a “record of arrest” as defined in §1-215(b), G.S., and it is concluded therefore that the respondents are not required to disclose such record to the complainant under the FOI Act while the criminal prosecution of the second suspect remains pending.

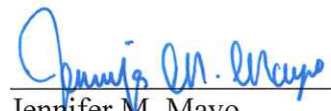
18. It is therefore concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

19. Based upon the foregoing conclusions, the complainant’s request for the imposition of 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 June 25, 2025.

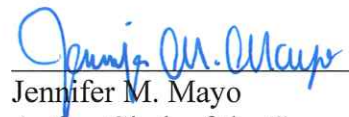
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**TYRELL BROWN, #253736**, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

**MATTHEW MARINO, CHIEF, POLICE DEPARTMENT, CITY OF NEW BRITAIN; POLICE DEPARTMENT, CITY OF NEW BRITAIN; AND CITY OF NEW BRITAIN**, c/o Attorney Mary C. Pokorski, City of New Britain, Office of Corporation Counsel, 27 West Main Street, New Britain, CT 06051

  
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Jennifer M. Mayo  
Acting Clerk of the Commission