

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jacob Simkovitz,

Complainant

against

Docket #FIC 2024-0715

Chief, Fire Department, Town of Easton;
Fire Department, Town of Easton; and
Town of Easton,

Respondents

November 19, 2025

The above-captioned matter was heard as a contested case on April 10, 2025, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint. After the hearing in this matter and pursuant to a May 6, 2025 order of the undersigned Hearing Officer, the respondents provided the following affidavits:

Affidavit of Robert Klem, Fire Chief, Easton Fire Department,
dated May 21, 2025 (marked as Respondents' Exhibit 2);

Affidavit of David F. Bindelglass, First Selectman for the Town of
Easton, dated May 22, 2025 (marked as Respondents' Exhibit 3);
and

Affidavit of David Katz, Chairman of the Fire Commission for the
Town of Easton, dated May 23, 2025 (marked as Respondents'
Exhibit 4).

In light of the information contained in the Affidavits described above, the hearing in this matter was reopened and held on July 11, 2025, at which time the complainant and respondents appeared and presented further testimony, exhibits and argument on the complaint.

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 November 17, 2024, the complainant submitted a request to the Town Clerk for the Town of Easton, the Chairman of the Easton Fire Commission (EFC), and the

respondent Chief of the Easton Fire Department (EFD)¹, seeking various policies/procedures, and records containing: (i) statistical call data for 2019-2024; and (ii) the number of volunteers and current level of certification for each EFD firefighter. Moreover, in his request, the complainant indicated that he preferred records to be produced to him electronically, via email.

3. It is found that shortly after receiving the complainant's request, the Chairman of the EFC indicated, via email, that he did not have any records responsive to the complainant's request. The Chairman then followed up his initial response with another email questioning the complainant's reason for his request and what he planned to do with the information once it was received.²

4. It is found that on November 18, 2024, the Town Clerk for the Town of Easton replied to the complainant indicating that she did not maintain records responsive to his request, but that the respondent Chief of the EFD or the Chairman of the EFC might be able to assist him.

5. It is found that on November 20, 2024, the respondent Chief of the EFD responded to the complainant indicating that he had received the request and would inform the complainant when the records were ready. Shortly thereafter, the complainant inquired as to when he could expect the records to be produced.

6. By letter of complaint filed and received on November 25, 2024, the complainant appealed to the Commission alleging that the respondents violated the Freedom of Information (FOI) Act by not providing records responsive to his request described in paragraph 2, above.³

7. It is found that on December 9, 2024, the complainant again followed up with the respondent Chief of the EFD regarding his request.

8. It is found that on December 16, 2024, the respondent Chief of the EFD informed the complainant that records responsive to a portion of his request would be available to be picked up the following day, and that the available records consisted of 47 pages, for which he would need to pay a fee of \$23.50.

9. It is found that the respondent Chief of the EFD further informed the complainant on December 16, 2024, that approximately 6,500 pages of additional records were located which would have to be reviewed and redacted.

¹ While the Town Clerk and Fire Commission are separate public agencies from the respondent EFP and not respondents in this matter, they did have some involvement in processing the request (e.g., through corresponding with the complainant or actually providing him the records from the respondent EFD).

² While not relevant to the Commission's consideration of the complaint, it is noted that the complainant responded to the Chairman's email indicating that he was not required to explain his reasoning or intent for seeking records, but that his intent was to determine how tax payer funds were being used.

³ The complainant also alleges that the Chairman of the EFC violated the FOI Act as a result of the Chairman's emails described in paragraph 3, above. Although the Chairman of the EFC is named in the complaint, he is not a member of the respondent EFD, nor did he independently maintain records responsive to the complainant's request described in paragraph 2, above. While the Chairman's responses raise significant concerns, such claims are not properly before this Commission.

10. It is found that on the same day, the complainant replied to the respondent Chief of the EFD clarifying that he was seeking electronic, not physical copies, of the records requested in paragraph 2, above. Moreover, the complainant further clarified that he was only seeking aggregate statistical data, and thus the additional records described in paragraph 9, above, were not necessary.

11. It is found that the complainant mailed payment to the Town Clerk (on behalf of the respondents) for the fee described in paragraph 8, above. After receiving payment, the Town Clerk (on behalf of the respondents), on December 26, 2024, emailed a copy of the records to the complainant.⁴

12. At the April 10, 2025 hearing in this matter, the complainant indicated that the respondents had provided all records responsive to his request described in paragraph 2, above. Nevertheless, the complainant maintained that the respondents improperly assessed him a fee for electronic records and that they were not prompt in producing such records.⁵

13. 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.

14. 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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

15. 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.”

⁴ The complainant testified, and it is found, that he was unable to pick up the physical records at the time.

⁵ The complainant again raised the alleged violations of the FOI Act by the Chairman of the EFC; however, for the reasons set forth in footnote 3, above, such claims are not before the Commission in this matter and will not be addressed herein.

16. It is found that the majority of the records provided to the complainant in response to his request described in paragraph 2, above, were stored electronically in a database called “Fire Programs.” In addition to the Fire Programs records, it is found that the 47 pages of records provided to the complainant also consisted of four pages of the respondents’ policies and procedures and a one page chart indicating the qualifications of firefighters for either the respondent EFD or the Town’s Volunteer Fire Company.

17. While there is some ambiguity⁶ as to whether the respondent EFD owns the actual computer-system on which the Fire Programs database is stored, it is found that the respondent EFD uses the Fire Programs database to, among other things, collect, aggregate, and store, statistical call data of the kind sought by the complainant.

18. It is found that the requested records, albeit in the possession of allegedly outside entities, are “owned” or “used” by the respondents within the meaning of §1-200(5), G.S. See e.g., Town of Avon v. Sastre, 224 Conn. App. 155, 175 (2024) (town manager maintained records despite giving the record to the town attorney); see also Docket #FIC 2016-0700, Alex Wood et al. v. Town Manager, Town of Enfield et al. (September 13, 2017) (records were “owned” or “used” by the respondents despite being in the possession of outside counsel).

19. It is concluded, therefore, that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

20. With regard to the claim that the respondents improperly charged him a copy fee despite the fact that he requested that records be provided electronically, §1-212(a)(B), G.S., permits municipal public agencies to charge \$.50 per page for copies of public records.

21. However, §1-211(a), G.S., provides, in relevant part that:

any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the [FOI] Act, a copy of any. . . [record], including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make such copy or have any such copy made.

22. Furthermore, §1-212(b), G.S., provides, in relevant part that “[t]he fee for any copy provided in accordance with subsection (a) of section 1-211 shall not exceed the cost thereof to the public agency.”

⁶ In his affidavit, the respondent Chief of the EFD averred that “some records are kept on my company’s computer system and some records are kept on the Volunteer Fire Company’s computer system. These records are available but those entities provided paper copies.” As the EFD is the named respondent in this matter, and there is no dispute that the respondent EFD is a public agency, the Commission need not address the respondents’ claim that the Volunteer Fire Company is not the functional equivalent of a public agency. Additionally, while no additional information was provided regarding what the respondent Chief of the EFD meant by “my company’s computer system,” as noted in paragraphs 17 and 18, above, to the extent such records are kept on a computer system of a private business owned by the respondent Chief of the EFD, it is found that such records constitute public records maintained on behalf of the respondent EFD.

23. With respect to the Fire Program records, it is found that the fact that such records were provided to the respondent Chief of the EFD in paper copy, does not change the fact that such records are “public records in a computer storage system” within the meaning of §1-211(a), G.S.

24. It is found that the respondents failed to prove that there were *any* costs associated with the electronic transmission of the computer-stored Fire Program records.⁷

25. Accordingly, it is found that the respondents improperly charged the complainant a fee for the Fire Program records.

26. It is found that the other records for which the complainant was charged (i.e., the non-Fire Program records) total five pages and consist of: (i) two policies regarding first responders; and (ii) a chart outlining the qualifications of each firefighter for the EFD.

27. The respondents testified that the records described in paragraph 26, above, were only available in paper copy. It is found that the two policies appear to have been created on a computer via a word processor, while the chart, on its face, is partially handwritten.

28. It is found that, even if no computer-stored versions of the records described in paragraph 26, above, existed, the respondents ultimately scanned and emailed the records to the complainant.⁸

29. It is found that the respondents presented no evidence that they incurred *any* costs for scanning and transmitting the non-Fire Program records.

30. Accordingly, it is found that the respondents improperly charged the complainant a fee for the non-Fire Program records described in paragraph 26, above.

31. Based upon the findings in paragraphs 25 and 30, above, it is concluded that the respondents violated the fee provisions §§1-211 and 1-212, G.S.

32. The complainant further claims that although the respondents provided him with all records responsive to his request described in paragraph 2, above, they failed to provide them promptly.

33. The Commission has held that the meaning of the word “promptly” is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (January 11, 1982), the Commission

⁷ The Commission takes administrative notice, as it previously has, “of the fact that there is no cost associated with transmitting a record electronically.” See Docket #FIC 2018-0293, Jessica Stedman v. Pam Vogel, Superintendent of Schools, Regional School District #1 et al. (February 13, 2019).

⁸ It is unclear whether the respondents ever created additional paper copies of records identified in paragraph 26, above. Nevertheless, except for §1-212(g), G.S., which is not applicable in this matter, there is no provision of the FOI Act that permits the respondents to charge for scanned records.

advised that the word “promptly,” as used in §1-210(a), G.S., means “quickly and without undue delay, taking into account all factors presented by a particular request.”

34. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requestor, if ascertainable; and the importance to the public of completing other agency business without the loss of personnel time involved in complying with the request. In addition, common sense and goodwill ought to be the guiding principles.

35. As outlined in paragraphs 2 through 11, above, one month elapsed between the date of the complainant’s request and the date the respondents informed him that the responsive records were available to be picked up. Moreover, an additional nine days elapsed until the complainant received the records electronically, as requested.

36. It is found that due to the Thanksgiving holiday, the respondent Chief of the EFD was out of town for a portion of the time during which the request was pending.

37. It is further found that the respondents were also processing two other records requests that coincided with the complainant’s request at issue in this matter. It is found that those other requests each took approximately two to four hours to complete.

38. It is found that the respondent Chief of the EFD is a part-time position with minimal staff support, if any.⁹

39. The complainant testified, and it is found, that he would have considered the respondents’ production of records prompt if he had received it within 20 days¹⁰. It is found that the complainant provided no reason why the 39 days it took for the respondents to comply with his request significantly impacted his ability to access public records, nor did the complainant indicate that he needed the records by a specific date.

40. It is found that the delay in providing the complainant records was partially due to the respondents’ misunderstanding that they needed to provide the Fire Program records electronically, as requested. However, it is found that there is no indication that the respondents acted in bad faith or deliberately tried to delay the production of records.

⁹ The respondent Chief of the EFD indicated that he was a volunteer. There is insufficient evidence in the record to make a finding with respect to his status as a volunteer. Nevertheless, given the other factors considered, above, whether the respondent Chief of the EFD is, in fact, a volunteer does not significantly impact the Commission’s determination as to whether the respondents promptly provided the complainant with responsive records.

¹⁰ It is found that a Town of Easton employee, on behalf of the respondents, indicated to the complainant that they had 20 days to provide the responsive records. It is unclear how that employee came to such conclusion, but it likely stems from a misunderstanding of the FOI Act’s promptness requirements.

41. Based on the specific facts and circumstances of this case, it is found that the respondents promptly produced the records at issue to the complainant.

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

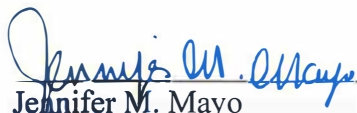
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondents shall refund the complainant the \$23.50 they improperly charged him for the records responsive to his request described in paragraph 2 of the findings of fact, above.

2. Within fourteen (14) days of the date of the Notice of Final Decision in this matter, the respondent Fire Chief shall contact the Commission's Public Education Officer to schedule a training on the Freedom of Information Act. It is recommended that the Easton Fire Commission also attend such training.

3. Henceforth, the respondents shall strictly comply with the fee provisions of §§1-211 and 1-212, G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of November 19, 2025.

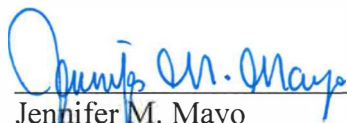

Jennifer M. Mayo
Acting Clerk of the Commission

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:

JACOB SIMKOVITZ, 180 Front Street, Unit 5C, Brooklyn, NY 11201

CHIEF, FIRE DEPARTMENT, TOWN OF EASTON; FIRE DEPARTMENT, TOWN OF EASTON, 1 Center Road, Easton, CT 06612; **AND TOWN OF EASTON**, 225 Center Road, Easton, CT 06612



Jennifer M. Mayo
Acting Clerk of the Commission