FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by | FINAL DECISION

Adam Osmond,

Complainant

against | Docket #FIC 2024-0756

Attorney General, State of Connecticut, Office of the Attorney General; and State of Connecticut, Office of the Attorney General,

Respondents | November 19, 2025

The above-captioned matter was heard as a contested case on April 17, 2025, at which time the complainant and respondents appeared and presented 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 24, 2024, the complainant submitted a records request to the respondents seeking:

   a. Emails (including attachments), texts, memos, and notes related to him or any of his cases produced or received between June 8, 2023, and November 24, 2024, by attorneys handling or who have handled his cases or complaints, as well as their supervisors, managers, and assistants.

   b. Email metadata (excluding the body content of the emails) for Leonard Auster and Vanessa Laro from July 1, 2008, to November 24, 2024.

   c. All information exchanges between the respondents and the State Auditors regarding whistleblower complaints he filed against the Department of Economic and Community Development ("DECD") and the Department of Children and Families ("DCF").

d. Full records from "data bases or mechanisms" the respondents use to track discrimination and whistleblower cases handled in defense of state agencies or employees.

3. It is found that on November 25, 2024, the respondents replied to the complainant acknowledging his request. In their acknowledgment email, the respondents also indicated that:

a. they estimated the "FOI charges" would exceed $10, and thus the respondents were "requiring prepayment of FOI charges before such FOI Charges were incurred;"

b. the "primary agency expense associated with satisfying [the complainant's] request for computer-stored public records is employee time engaged in providing the records;"

c. the hourly rate for working on the request would be $67.71/hour (which represented the effective hourly wage of the respondents' Assistant Attorney General ("AAG") assigned to handle the complainant's request) and that they estimated they would "take around 30 hours engaged in providing [the complainant] records to satisfy [his] request" and, accordingly, they "were requesting $2,000 prepayment;"

d. "Once the job is completed or the prepayment exhausted, the [respondents would] provide [the complainant] with a reconciliation bill, return any overpayment, and provide the fruits of that work. Time spent on search and retrieval of records will not be charged;"

e. "If some work remains to be done, [the complainant] will be given the option of making an additional payment at that time. The reason so much time is estimated to be needed is because as a law office much work product and communication is confidential under the attorney-client privilege and ***such information must be identified and redacted***." (Emphasis added).

f. "Work will commence after receipt of your prepayment. At this point I [i.e., the respondents' AAG assigned to process the request] have spent 30 minutes engaged in handling your request."

4. It is found that on November 26, 2024, the respondents' AAG processing the request further indicated that:

> [m]y suggestion of a $2000 prepayment is based upon a perception that [there] are likely substantial numbers of records responsive to your request and significant time will be necessary for me and other attorneys to fulfill our professional responsibilities. If you believe my estimate of time is erroneous, please feel free to make a prepayment in any amount you estimate will be sufficient to pay for the job and I will engage in providing the requested computer-stored records for as long as you have paid for. Of course, a reconciliation

> of the expense against your prepayment will be provided, and if the job is not complete you will have the opportunity to make an additional prepayment.

5. It is found that on December 2, 2024, after additional correspondence with the complainant, the respondents' AAG informed him that "[i]n any event, having spent another hour of my time engaged in your request[1] (and not engaged in search and retrieval), I hope you will simply make your prepayment of FOI charges and allow us to promptly provide you the requested records."

6. By complaint received and filed on December 3, 2024, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act, because their request for prepayment was predicated on impermissible charges such as the respondents' time spent for legal review of and making redactions to the requested records.

7. The Commission takes administrative notice of the final decision in Docket #FIC 2024-0517, Adam Osmond v. Daniel O'Keefe, Commissioner, State of Connecticut, Department of Economic Community Development et al. (August 13, 2025) ("Osmond I")[2], wherein the Commission was presented with virtually identical issues to those presented in this matter. Although Osmond I is largely dispositive in this matter, the Commission takes this opportunity to further expound on the principles outlined therein.

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 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

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[1] Although the respondents' AAG took care to remind the complainant that "[t]here is no public right to receive answers to questions," he saw fit to draft multiple lengthy emails to the complainant explaining his interpretation of the FOI Act's fee provisions. As the respondents testified that they had not conducted a search for the records, it appears that the hour-and-a-half cited by the respondents' AAG appears to include, at least in part, drafting such emails.

[2] The Commission notes that the respondents in Osmond I have appealed the Commission's final decision. At the time of the Commission's consideration of the instant matter, that appeal is still pending.

> section 1-212, or (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 paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

12. The respondents assert that the Commission lacks jurisdiction to hear this matter because, in their view, the FOI Act does not permit the Commission to review an agency's estimate of costs required for prepayment under §1-212(c), G.S. Such argument entirely ignores the plain language of the statute.

13. Section 1-212(c), G.S., clearly and unambiguously limits a public agency's ability to request prepayment of fees to *only* those fees that are either *required or permitted* under the FOI Act. See §1-212(c), G.S. ("[a] public agency may require prepayment of any fee ***required or permitted under the [FOI] Act***, if such fee is estimated to be ten dollars or more.") (Emphasis added).

14. Whether a fee is "required or permitted" is clearly within the purview of this Commission's jurisdiction and, thus, the Commission is well within its authority to determine whether the respondents' request for prepayment was predicated on fees that are impermissible under the FOI Act.[3]

15. Accordingly, the Commission now turns to whether the respondents' request for prepayment included only those fees that were "required or permitted" under the FOI Act.[4]

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[3] The respondents admitted as much on the record. When asked by the Hearing Officer whether the Commission could find a violation of the FOI Act, if an agency requests prepayment based on search and retrieval costs (fees clearly impermissible under §1-211(b)(1), G.S., except in narrow circumstances not applicable here), the following exchange occurred:

> HEARING OFFICER: If the estimate is based off charges . . . that are not allowed for under the FOI Act – like say for instance, something we all agree on – that you can't charge for search and retrieval time. If your estimate was based [on search and retrieval costs] then we all agree that would be an illegitimate charge under the FOI Act, and you could not base your estimate on that amount –
>
> RESPONDENTS' AAG: Yeah.
>
> HEARING OFFICER: – Right? Everyone agrees on that.
>
> RESPONDENTS' AAG: Yes.

[4] The Commission notes that at several points throughout the hearing in this matter, and in their post hearing brief, the respondents' AAG referenced the ability of public agencies to waive fees when doing so benefits the general welfare. The respondents' AAG failed to mention that §1-212(d)(2), G.S., *requires* public agencies to waive fees

16. Section 1-211(a), G.S, provides as follows:

> Any public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the Freedom of Information Act, a copy of any nonexempt data contained in such records, properly identified, on paper, disk, tape, or any other electronic storage device or medium requested by the person, including an electronic copy sent to the electronic mail address of the person making such request, if the agency can reasonably make any such copy or have any such copy made. Except as otherwise provided by state statute, the cost for providing a copy of such data shall be in accordance with the provisions of section 1-212.

17. Section 1-212, G.S., provides in relevant part, as follows:

> (b) The fee for any copy provided in accordance with subsection (a) of section 1-211 shall not exceed the cost thereof to the public agency. In determining such costs for a copy, other than for a printout which exists at the time the agency responds to the request for such copy, an agency may include only:
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> (1) An amount equal to the hourly salary attributed to all agency employees engaged in providing the requested computer-stored public record, including their time performing the formatting or programming function necessary to provide the copy as requested, but not including search or retrieval costs except as provided in subdivision (4) of this subsection;
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> (2) An amount equal to the cost to the agency of engaging an outside professional electronic copying service to provide such copying services, if such service is necessary to provide the copying as requested;
>
> (3) The actual cost of the storage device or media provided to the person making the request in complying with such request; and
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> (4) The computer time charges incurred by the agency in providing the requested computer-stored public record where another agency or contractor provides the agency with computer storage and retrieval services. . . .

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when "***[t]he records located are determined by the public agency to be exempt from disclosure under subsection (b) of section 1-210***." (Emphasis added). Section 1-212(d)(2), G.S., is directly adverse to the respondents' position in this matter (particularly with respect to redactions). The Commission finds the respondents' failure to raise §1-212(d)(2), G.S., quite concerning.

18. It is found that the labor costs that the respondents factored into their request for prepayment included: (i) the assigned AAG's time to read through the records and engage in a legal review to identify possible exemptions; (ii) the time it would take for the assigned AAG to confer with his clients to determine whether any information should be withheld; and (iii) the assigned AAG's time to redact information they deemed to be exempt from such records.

19. The respondents contend that the fee provisions contained in §1-212(b)(1), G.S., permit agencies to charge a fee for ***all*** labor costs associated with processing the complainant's request, except for those attributable to search or retrieval of such records. Accordingly, the respondents assert they could: (i) charge the complainant for the labor costs described in paragraph 18, above; and (ii) use those costs as a basis for estimating prepayment.

20. The respondents cite no authority to support their reading of §1-212(b)(1), G.S. Rather, the respondents purport that the plain language of the statute requires such interpretation. Specifically, the respondents focus on the portion of §1-212(b)(1), G.S., permitting agencies to charge for "the hourly salary attributed to all agency employees engaged in providing the requested computer-stored records. . . ." The respondents assert that the phrase "engaged in providing" covers any time they spend working on a records request (except for search and retrieval costs). The respondents' interpretation not only severely conflicts with the plain language of the statute but also leads to absurd and unworkable results.

21. Section §1-1, G.S., requires that "[i]n the construction of the statutes, words and phrases shall be construed according to the commonly approved usage of the language; and technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood accordingly."

22. Furthermore, §1-2z, G.S., requires that:

> [t]he meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be construed.

23. The provisions of §1-212, G.S., set forth all permissible fees that an agency may charge in connection with providing *copies* of public records. See §1-212(a), G.S., ("[t]he fee for any ***copy*** provided in accordance with the [FOI] Act.") (Emphasis added); see also §1-212(b), G.S., ("[t]he fee for any ***copy*** provided in accordance with subsection (a) of section 1-211. . . .") (Emphasis added).

24. In the context of non-computer-stored records (i.e., paper records) the explicit terms of §§1-212(a)(A) and (B), G.S., limit permissible fees to copying fees of twenty-five cents *per page* for state agencies and fifty cents *per page* for all other public agencies.[5]

25. It is clear, therefore, that the fees a public agency may charge for paper records are solely derived from the costs attributable to providing the record in the prescribed medium. As an agency would not be able to provide original versions of paper records to requestors, they must make *physical copies* of such records to *provide* them to the requestor. In the case of paper records the *physical copy* is the prescribed medium in which the agency is obligated to *provide* records. Notably, nothing in §1-212(a), G.S., would permit the respondents to charge a fee for (or predicate their fee estimate on) any of the labor costs identified in paragraph 18, above.

26. Like §1-212(a), G.S., the fee provisions in §1-212(b), G.S., also specifically refer to fees for producing *copies*. See e.g., §1-212(b), G.S. ("In determining such costs for a ***copy***. . . ."). However, unlike paper records, in which a copy necessarily means a physical reproduction of the record, the meaning of the word "copy" with respect to computer-stored records is not self-evident, and the statute does not provide a contextual definition. Therefore, pursuant to §1-1, G.S., the Commission will define the term "copy" in accordance with its commonly approved usage.

27. The term "copy," in the context of computer-stored records, means:

> [t]o duplicate information and reproduce it in another part of a document, in a different file, or memory location, or ***in a different medium***. A copy operation can affect data ranging from a single character to large segments of text, a graphics image, or one to many data files. Text and graphics, for example, can be copied to another part of a document, to the computer's memory. . . or to a different file. Similarly, files ***can be copied from one disk or directory to another***, and data can be copied from the screen to a printer or to a data file.

(Emphasis added). *Copy*, MICROSOFT PRESS COMPUTER DICTIONARY: THE COMPREHENSIVE STANDARD FOR BUSINESS, SCHOOL, LIBRARY, AND HOME (1991); see also, *Copy*, COMPUTER DICTIONARY, Donald D. Spencer, PhD., (3rd. Ed. 1992), accessed via the Internet Archive (https://archive.org/details/computerdictiona0000spen) (defining "copy" as "[t]o reproduce data in a new location or other destination, leaving the source data unchanged, although the ***physical form*** of the result may differ from that of the source; for example, to make a duplicate of all the programs or data on a disk, or to copy a graphic screen image to a printer. . . .") (Emphasis added).[6]

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[5] Section 1-212(a)(B), G.S., also provides that "[i]f any copy provided in accordance with said [FOI] Act requires a transcription, or if any person applies for a transcription of a public record, the fee for such transcription shall not exceed the cost thereof to the public agency."

[6] As the language that is now codified in the FOI Act as §1-212(b), G.S., was enacted in 1991, the Commission's use of sources from that time is deliberate to more accurately capture the understanding of the legislature at that

28. Considering the definitions of "copy" identified in paragraph 27, above, it is abundantly clear to the Commission that the use of the term "copy" in §1-212(b), G.S., refers to the reproduction or duplication of the computer-stored public record from one location or format to another. The legislature's consistent use of the word "copy" across §§1-212(a) and (b), G.S., evidences a clear intent to address the same issue in both instances – the cost associated with the production of a public record in a *given medium*. The reason why §1-212(b), G.S., has more categories of permissible charges compared to that in §1-212(a), G.S., is clearly attributable to the nature of computer-stored records which may exist in varying file formats with varying degrees of interoperability across different computer systems (especially in 1991, when the language codified in §1-212(b), G.S., was enacted).[7]

29. The Commission's interpretation of the legislature's intent is also consistent with how Connecticut courts have interpreted the provisions of §1-212(b), G.S. For instance, in Taconic Data Corp. v. Town Clerk, Town of Suffield et al., judicial District of New Britain, 1998 WL 323437 ("Taconic Data Corp."), the court held that the Town Clerk improperly calculated fees for providing computer-stored public records as such fees were derived from "the content of the electronic diskette as if produced on paper, and charged a corresponding $1.00 per page fee." In doing so, the court in Taconic Data Corp. noted that:

> Prior to the enactment of Public Act 91-347, §1-19a [now codified as §1-211, G.S.], required only that 'Any agency which maintains its records in a computer stored system ***shall provide a printout*** of any data properly identified. ***The 1991 amendment added the obligation to provide this nonexempt data in 'disk, tape, or any other electronic storage device or medium requested by that person . . .'***
>
> The Freedom of Information Act expresses a strong public policy in favor of the open conduct of government and ***free public access to government records***. Allowing the town clerks to charge ***thousands of dollars more than their costs in providing a copy of an electronic disk containing public information is highly offensive to the 'strong public policy' of 'free public access to government***

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time. Nevertheless, modern sources are nearly identical with such definitions identified in paragraph 27, above. See e.g., *Copy*, DICTIONARY OF COMPUTER AND INTERNET TERMS, John C. Rigdon (1st. Ed. 2016) (accessed via the Internet Archive, https://archive.org/details/dictionary-of-computer-and-internet-terms-john-c.-rigdon) (defining "copy" as meaning "[t]o duplicate information and reproduce it in another part of a document, in a different file or memory location, ***or a different medium***. A copy operation can affect data ranging from a single character to large segments of text, a graphics image, or from one to many data files.") (Emphasis added).

[7] See e.g., 34 H.R. Proc., Pt. 20, 1991 Sess., p. 7463,

> REP. MEYER (135th):
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> Representative Kiner, ***some of these small systems, perhaps will not be able to produce records in a form that is usable by people with say an IBM machine***. It can be done eventually, but it is a very, very costly process to ***change the language*** you might say, ***into a more usable form***.

(Emphasis added).

> ***records.'*** The information in electronic disk format is available as a matter of right. There is no evidence to support the claim that §7-34a(a) [a statute providing for fees of paper copies of the same records] expresses a stronger public policy regarding town clerks', or towns', income. The contrary priority of policy is reflected in Glastonbury v. Freedom of [Info. Comm'n], 234 Conn. 704, 714 . . . (1995) [("Glastonbury")], which held: "***[a]lthough the legislature's narrowly tailored approach to the FOIA exclusions and exemptions may add a layer of complexity to agency administration, the legislature implicitly has decided that the associated costs are outweighed by the benefits derived from open government."***
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> . . .
>
> Sections 1-15 [now codified as §1-212, G.S.] and 1-19 [now codified as §1-210, G.S.] are provisions of the FOIA. 'The general rule under the Freedom of Information Act is disclosure with exceptions to the rule being narrowly construed.' New Haven v. FOIC, 205 Conn. 767, 774 . . . (1988); Superintendent v. FOIC, 222 Conn. 621, 626 . . . (1992); Perkins v. FOIC, 228 Conn. 158, 167 . . . (1993).
>
> Section 7-34a(a) is an exception to the FOIA, and must thus be narrowly and strictly construed. Limiting its application to paper copies gives full expression to the statutory language and carries out the strong public policy of free (or nor more than cost) access to public records.
>
> . . .
>
> The fee to the plaintiff for copies of [the requested records] in electronic format ***may not exceed the towns' reasonable costs in providing the copies in that format***.

(Emphasis added).

30. As found in paragraph 18, above, the respondents included in their fee estimate, their time for legal review of the records, talking with their clients about the records, and redacting information where necessary. It is obvious to the Commission that none of those tasks are attributable to the "computer-stored" nature of the requested records. The respondents would have to perform those same tasks regardless of whether such records were paper records or computer-stored records.

31. The respondents do not assert, nor could they reasonably assert, that they are permitted to charge for time spent on legal review and redactions if such records were paper records pursuant to §1-212(a), G.S. Therein lies the absurdity of the respondents' interpretation of §1-212(b), G.S. Accepting such interpretation necessarily requires the conclusion that, in

passing the language now codified in §1-212(b), G.S., the legislature meant to create two parallel fee provisions wherein fees for the *exact* same work were prohibited for requests for paper records but permitted simply if the requested records were stored on a computer.[8] In fact, the legislature expressed the exact opposite intent as evidenced during the discussion on the House floor as legislators were considering the language now codified in §1-212(b), G.S.:

> REP. KINER (59th):
>
> Thank you, Mr. Speaker. Mr. Speaker ladies and gentlemen. ***The very heart and soul of freedom of information is its intent to allow the free and open access to all non-exempt data to those who would request such data***.
>
> It's been said before, and I must echo the comments of those who have talked on this bill prior to me, perhaps in the Senate and in Committee, we have gone beyond the paper age, ladies and gentlemen. We've entered the computer age a long time ago.
>
> What this bill seeks to do is bring us into the computer age by allowing our constituents, our people, to ask for non-exempt data through FOI in ***any media that is reasonable to be given to these people***.

34 H.R. Proc., Pt. 20, 1991 Sess., pp. 7452-53. This sentiment was echoed in the Senate in their deliberations:

> SENATOR HERBST:
>
> Thank you, Madam President. This bill is going to be basically if passed a landmark piece of legislation. We are presently moving from the age of paper to the age of communication revolution where computers and technology are taking over our lifestyle. ***This bill does not call for any procedures that are more expensive. There are recovery costs by public agencies for information that is requested and this provides for a very open and efficient government***.

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[8] For example, in their post-hearing brief, the respondents indicate that "[r]eviewing the requested computer-stored information, largely emails, is not some frivolous choice of the Respondents. . . .," but is necessary given their various legal obligations (e.g., to protect the attorney-client privilege, or notify employees about the disclosure of their personnel or medical files). See Resp. Brief, p. 16. There is no dispute that such obligations are significant. It is clear, however, that such obligations do not disappear based on *how* the records are stored. The respondents must protect the attorney-client privilege for both paper records and computer-stored records. The respondents must inform employees about the potential release of their personnel, medical, or similar files (in specific circumstances) regardless if such files are kept on paper or stored in a computer. There is simply no principled reason why, by storing records in a computer (rather than on paper), a public agency may charge for any task associated with responding to a records request (excluding search and retrieval costs).

> It does not in any way attempt to redefine non-exempt and exempt information that is already defined in other parts of our statute. ***What the bill intends to do . . . is to allow the public to now have access to non-exempt information in the form of a disk or tape or printout.***

34 S. Proc., Pt. 5, 1991 Sess., pp. 1589-90.

32. Additionally, the respondents ignore the fact that §1-212(b), G.S., specifically excludes from its provisions "a printout which exists at the time that the agency responds to the request for such copy . . . ." Although the term "printout" is not defined in the FOI Act, in the context of computer-stored records it means a "[f]orm of computer system output, printed on a page by a printer. See hard copy" See *Printout*, COMPUTER DICTIONARY, supra.[9] By its own terms, §1-212(b), G.S., excludes those records that, while stored on a computer, are maintained by the agency in physical form at the time of the request. This exclusion further underscores that the fee provisions of §1-212(b), G.S., are designed to address the costs associated with providing a computer-stored record in a particular format or medium because, if a record already exists as a printout, any costs associated with *providing* that record stem from making a copy for the requestor.

33. Just as it would be absurd for the legislature to prohibit or permit fees for the exact same work based on whether such records are paper records or computer-stored records, it is even more absurd to assume that the legislature intended to condition such fees on whether a public agency has previously printed out a computer-stored record. As noted in paragraph 30, above, any legal review, discussion with clients, or redactions are not dependent on whether such records are paper records or computer-stored records. Such tasks are entirely dependent on the *contents of the records* and are not contingent on the medium on which the requestor seeks such records.

34. As with the improperly calculated fees in Taconic Data Corp., the respondents' interpretation of §1-212(b), G.S., is "highly offensive to the strong public policy of free access to government records" and, therefore, must be rejected. (Internal quotation marks omitted). Taconic Data Corp., 1998 WL 323437, at *2-3.[10]

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[9] Moreover, the term "printout" is synonymous with the term "hard copy." See *Printout*, MICROSOFT PRESS COMPUTER DICTIONARY: THE COMPREHENSIVE STANDARD FOR BUSINESS, SCHOOL, LIBRARY, AND HOME, supra; see also, BARRON'S BUSINESS GUIDES: DICTIONARY OF COMPUTER AND INTERNET TERMS (10th. Ed. 2009), accessed via the Internet Archive (https://archive.org/details/DictionaryOfComputerAndInternetTerms2009_201701/mode/1up) (defining "hard copy" as "a printout on paper of a computer output. *Contrast* SOFT COPY, which is a copy that is only viewable on the screen); see also, *Printout*, THE COMPUTER GLOSSARY: THE COMPLETE ILLUSTRATED DICTIONARY, Alan Freedman (7th Ed. 1995), accessed via the Internet Archive (https://archive.org/details/computerglossary0000free/page/n6/mode/1up) ("Same as *hard copy*").

[10] The respondents also argue that there was no "denial" of the complainant's request, because the complainant was required to prepay the fees quoted by the respondents, but did not. This argument presumes the fees that form the basis for such estimate were proper. For the reasons set forth in paragraphs 23 through 33, above, the Commission

35. Besides their unsupported interpretation of the "plain language" of §1-212(b)(1), G.S., the respondents assert that the principles outlined in Pictometry Intern. Corp. v. Freedom of Info. Comm'n, 307 Conn. 648 (2013) ("Pictometry"), support their position that they may charge for any labor costs for processing a records request (excluding those for search and retrieval). Specifically, the respondents contend that, as the Court noted in Pictometry, the legislature did not intend to "subject state agencies to virtually limitless financial exposure." The respondents' reliance on Pictometry is misplaced.

36. The respondents cite to Pictometry as an instance where "[t]he Connecticut Supreme Court has previously ***addressed a computer-stored public information FOI fee dispute***. . . ." See R. Br. at 20. The respondents misrepresent the Court's holding in Pictometry.

37. Pictometry, in relevant part, involved a records request to state agencies for all imagery provided to the state agencies by Pictometry International Corporation pursuant to an agreement for specialized aerial photographic services. Pictometry, 307 Conn. 648 at 654-55. Under that agreement, the state agencies could not "reproduce any of the licensed images for use by persons not covered by the licensing agreement unless the licensed user [i.e., the state agency] paid Pictometry a fee of $25 per image, which fee the licensed user was authorized to pass on to the person requesting the copy." Id., at 655.

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rejects the respondents' argument. The Commission further notes that fees, such as the kind the respondents propose:

> would have the practical effect of denying the [public] access to records, that by statute, must be made available to the public. Such result would be inconsistent both with the act's broad policy favoring the disclosure of information and with the well established canon of statutory construction 'that those who promulgate statutes or rules do not intend to promulgate statutes or rules that lead to absurd consequences or bizarre results.

Hartford Courant Co. v. Freedom of Info Comm'n, 261 Conn. 86, 100 (2002) (concluding that Department of Public Safety improperly calculated a fee of $20,375,000 for the complainant's request for "a digital copy of all of the fields of information typically produced on a Bureau of Identification rap sheet for every adult in the database" on either a tape or CD-ROM. The Court concluded, for various reasons, that such fee conflicted with §1-212(b), G.S.)

Similarly, at several points during the hearing in this matter, the respondents referred to their $2,000 fee estimate as a "retainer."

The Commission finds the respondents' framing of their statutory obligation to provide public records as a service permitting a "retainer" to be an egregious misreading of the requirements of the FOI Act. A "retainer" is "a type of compensation agreement with lawyers for ***either reserving their employment or as compensation for future service***." (Emphasis added). *Retainer*, CORNELL LEGAL INFORMATION INSTITUTE https://www.law.cornell.edu/wex/retainer (last accessed October 29, 2025). The respondents are not in the complainant's employment, and the complainant is not the respondents' client. Furthermore, the respondents are not providing the complainant a "service;" the complainant is entitled to receive non-exempt public records, and it is a primary duty of all public agencies to provide such records. See, Comm'r of Dept. of Emergency Services and Public Protection v. Freedom of Info. Comm'n, judicial district of New Britain, Docket No. HHB-CV-18607741, 2020 WL 5540637, at *3 ("The court interprets 'primary duty' in this sense as an important duty of the agency on par with the agencies other significant duties, or said another way, the agency's FOIA duty is not a second class duty. This appears to be an apt description. An agency's FOIA is a statutory duty or command. As such, it is not second class to any other statutory duty or command.")

38. In determining whether the state agencies could pass along the $25 fee described in paragraph 37, above, the Court explicitly stated that:

> We conclude, however, ***that the $25 per image copying fee is not a fee for the disclosure or copying of 'public records in a computer storage system'*** and, therefore is not governed by §§1-211(a) and 1-212(b)(3), even though the records in the present case happen to be stored in a computer. ***Rather, it is a fee for copying a copyrighted public record***.

(Emphasis added.) Id., at 685.

39. The Court in Pictometry highlights the same absurdity described by the Commission in paragraphs 31 and 33, above. Specifically, in concluding that the $25 per image fee was not governed by §§1-211(a) and 1-212(b)(3), G.S., the Court noted that "***[i]t would be anomalous to conclude §1-211(a) and §1-212(b)(3) govern the fee that may be charged for copying a copyrighted record if the record is stored in a computer, but other rules govern the fee that can be charged for copying other copyrighted records.***" (Emphasis added). Id. So too would it be anomalous for the FOI Act to permit fees for labor costs such as legal review and redactions for computer-stored records, but not paper records.

40. Finally, the Court in Pictometry distinguished §1-212, G.S., to the fees associated with accessing copyrighted material and noted that:

> We conclude that § 1-212 was not intended to bar public agencies from charging for the costs of copying copyrighted materials in addition to the fees specifically authorized in § 1-212. First we conclude that the $25 fee that [the state agencies are] required to pay Pictometry for reproducing photographic images for use by a nonlicensed user ***is not a fee for a 'copy'*** in the sense that that word is used in § 1-212. That statute was clearly intended to place limits on the mechanical, material and labor costs of preparing copies that a public agency may pass on to the person requesting the copy. The $25 per image fee provided for in the licensing agreement is not, however, a fee for the ***mechanical, material or labor costs of reproducing copies of the copyrighted materials***. . . .

(Emphasis added) Id., at 686.

41. Consistent with paragraphs 23 through 28, above, the Court concluded that the fees under §1-212, G.S., are fees for *copies*. Notably, the fact that the Court does not distinguish between subdivisions (a) and (b) of §1-212, G.S., strongly suggests that both provisions serve the same purpose – to produce the record in a prescribed medium (either paper copies pursuant to §1-212(a), G.S., or in the requested medium pursuant to §1-212(b), G.S.)

42. The Commission in no way suggests that public agencies should be subject to "virtually limitless financial exposure." The Commission recognizes that the process of providing a copy of a computer-stored record in a specified format or medium can be time

intensive and may require an agency to expend funds *it otherwise would not have to*. Section 1-212(b), G.S., clearly permits fees to cover those costs. It does not, however, afford public agencies *carte blanche* to charge for an entirely separate category of fees simply because the records are stored on a computer as opposed to paper.

43. Next, the respondents, in their post-hearing brief, claim that part of the fees included in their estimate were attributable to "formatting the copies of computer-stored public information to withhold or redact exempt data as necessary under the circumstances." Here, again, the respondents present no authority to support their position, choosing instead to rely on the conclusory statement that "the act of redacting content in an email is plainly the *formatting* of computer-stored information to create the 'copy of any nonexempt data contained in such records' to which the requester is entitled under §1-211, G.S." See Resp. Br., p. 17.

44. The Commission declines to accept the respondents' unsupported position and instead employs the required methods of statutory construction. See §§1-1 and 1-2z, G.S.

45. As the FOI Act does not define the term "formatting" the Commission turns to its commonly approved usage.[11]

46. It is found that the term "formatting" is a transitive verb meaning "to arrange (something, such as material to be printed or stored data) ***in a particular format***" and "to prepare (something, such as a computer disk) ***for storing data in a particular format***." See Formatting, MERRIAM-WEBSTER, https://www.merriam-webster.com/dictionary/formatting.

47. The Commission must, therefore, look to the definition of the term "format."[12] The term "format", in the context of computers, is defined as:

> a. "[t]he structure (or layout) of an item, whether it be a text document, a database record, or a computer system; the structure (or type) of program and data files – executable programs, word processing documents, graphics files and databases, for example.
>
> ***The arrangement or organization of data established by the application that created (organized) the file, which must be read by the same (or similar) program so that the data can be interpreted and presented."*** (Emphasis added). See *Format*, WEBSTER'S UNIVERSAL COMPUTER DICTIONARY (2007).

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[11] The Commission recognizes that, pursuant to §1-212(b)(4), G.S., the State Department of Administrative Services ("DAS") is tasked with providing "guidelines to agencies regarding the calculation of fees charged for copies computer-stored public records to ensure that such fees are reasonable and consistent among agencies." While DAS is tasked with providing "guidelines," nothing therein suggests that the Commission is prohibited from interpreting the statutory text of the FOI Act in accordance with §§1-1 and 1-2z, G.S. In any event, the current DAS guidelines do not define the term "formatting." See Policy Guidelines, Department of Administrative Services Bureau of Enterprise Systems and Technology, https://portal.ct.gov/das/-/media/das/communications/electronic_data_guidelines.pdf?rev=189ad39b53d84f2eac7c938e93a53655&hash=614F712A940291A68CA9FF2605D39004 (last accessed November 5, 2025).

[12] As the term "format" is a technical term in the context of computer-stored records, the Commission will utilize technical sources and specialized dictionaries.

b. "***the structure, or layout, of an item***. Screen formats are fields on the screen, report formats are columns, headers and footers on a page. Record formats are the fields within a record. File formats are the structure of data and program files, word processing documents and graphics files (display lists and bitmaps) with all their proprietary headers and codes." (Emphasis added). See, *Format*, THE COMPUTER GLOSSARY: THE COMPLETE ILLUSTRATED DICTIONARY, supra.

c. "the structure or appearance of a unit of data, such as a file, fields in a database, a cell in a spreadsheet, or the text in a word-processed document. For example, a file can be stored ***in the format typical of a certain application, or it can be stored in a more 'generic' format, such as plain ASCII text, which contains all the words, but little in the way of page-layout specifications***. Similarly, the data-storage areas on a disk are arranged in a particular format of tracks and sectors; the fields in a database are laid out in a certain order when they are used for data entry or generating reports; a cell in a spreadsheet can be designated for a particular format – numeric, character, dollar value, and so on; and the text in a word-processed document is given certain page, paragraph, and character formats. See *Format*, MICROSOFT PRESS COMPUTER DICTIONARY: THE COMPREHENSIVE STANDARD FOR BUSINESS, SCHOOL, LIBRARY, AND HOME, supra.

d. "[(i)] ***Specific arrangement of data***[;] [(ii)] [p]rogramming associated with setting up text arrangements for output." (Emphasis added). See *Format*, COMPUTER DICTIONARY, supra.

e. "any method of arranging information that is to be stored or displayed. The word *format* can therefore refer to many different things relating to computers. Three of its most common usages are as follows: [(i)] [t]he format of a file (or of any storage medium) refers to the way the information is stored in it . . . . [;] [(ii)] [t]o format a disk is to make the computer record a pattern of reference marks on it, which is usually done at the factory. Formatting a disk erases any information previously recorded on it[; and] [(iii)] In spreadsheets and programming languages, the format of a data item determines its appearance (how many digits are displayed, whether there is a dollar sign, etc, whether to use italics, etc.)" See *Format*, BARRON'S BUSINESS GUIDES: DICTIONARY OF COMPUTER AND INTERNET TERMS, supra.

48. Additionally, "[a]lthough ***it has no bearing on a document's content***, formatting adds both individuality and readability to the document." (Emphasis added). See *Formatting*, MICROSOFT PRESS COMPUTER DICTIONARY: THE COMPREHENSIVE STANDARD FOR BUSINESS, SCHOOL, LIBRARY, AND HOME, supra.

49. To further illustrate this point, the Commission notes that the term "file format" is defined as:

> [a] way of arranging information in a file. Almost every computer program has one or more file formats of its own; for example, WordPerfect documents are not in the same format as Microsoft

> Word documents, and similar programs from different manufacturers cannot necessarily process each other's files. There are three reasons why file formats are diverse:
>
> 1. Different programs handle different kinds of data (text vs. pictures vs. spreadsheets, for example).
>
> 2. Different programs simply pick different ways of doing the same thing. Sometimes, inventing a new file format is a point of pride, or is necessary to avoid infringing someone else's copyright or patent.
>
> 3. Even when the end result is the same, the way different programs achieve it may be very different. For example, a Windows Paintbrush picture is a *bitmap* (a large grid of dots), but a CorelDraw picture consists of *vector graphics* (instructions to draw lines or shapes in particular positions). The two kinds of pictures are very different from the computer's point of view.
>
> Many programs have the ability to *import* (bring in) files that are not in their own format. But the format of the imported file may not be very well suited to the way the program works, resulting in loss of quality or partial loss of information (disappearance of italics or footnotes, loss of graphics resolution, inability to edit the imported material, or the like). It is also possible to *export* files to a format other than the usual one, but again, loss of information may occur.

File Format, BARRON'S BUSINESS GUIDES: DICTIONARY OF COMPUTER AND INTERNET TERMS, supra.

50. It is found that the definition of "file format" described in paragraph 49, above, identifies the same interoperability concerns that the legislature considered when adopting the language now codified in §1-212(b), G.S. See e.g., 34 H.R. Proc., Pt. 20, 1991 Sess., p. 7463 (Rep. Meyer's comments pertaining to interoperability of municipal computer systems).

51. It is found that, given the definitions in paragraphs 46 through 49, above, the term "formatting," as used in the context of computers and computer-stored records, refers to the underlying structure and arrangement of data for a given computer-stored file or record, independent of the contents of such file or record.

52. It is found, however, that redactions are content based edits to records. See e.g., *Redact*, MERIAM WEBSTER, https://www.merriam-webster.com/dictionary/redact ("to select or adapt (***as by obscuring or removing sensitive information***) for publication or release) (Emphasis added); see also Resp. Br., p. 17. (referencing "the act of redacting the ***content*** of an email . . .") (Emphasis added).

53. Accordingly, it is found that because "formatting" has no bearing on a document's content, and redactions are content based edits, redactions cannot constitute "formatting" within the meaning of §1-212(b)(1), G.S.

54. The Commission's finding that redactions are not "formatting" not only avoids the absurd results identified in paragraphs 31 and 33, above, but also gives full effect to every word and phrase of §1-212(b)(1), G.S.

55. For instance, §1-212(b), G.S., provides, in relevant part that, public agencies may charge for their employees "time performing the formatting or programming functions necessary to provide the copy ***as requested***. . . ." (Emphasis added.)

56. It is found that the inclusion of the phrase "as requested" is a clear reference to §1-211(a), G.S., which requires that a public agency provide nonexempt data contained in computer stored records "on paper, disk, tape, or any other electronic storage ***device or medium requested by the person***. . . ." (Emphasis added). Thus, any formatting or programing done pursuant to §1-212(b)(1), G.S., must be *necessary* to provide a copy of a computer-stored record in the device or medium requested by the person seeking such records pursuant to §1-211(a), G.S. As the respondents admit, redactions are made based on the *content* of the record. Thus, while redactions may be necessary for the respondents to comply with their legal obligations, they are not necessary to provide a copy of such record via a requested device or medium as required under §1-212(b)(1), G.S.

57. The purpose of the phrase "as requested" becomes even more clear when considering the text of §1-212(b)(2), G.S., which provides that an agency may charge for "[a]n amount equal to the cost of the agency engaging an outside professional copying service to provide such copying service, ***if such service is necessary to provide the copying as requested.***" (Emphasis added). The consistent use of the phrase "as requested" in §§1-212(b)(1) and (2), G.S., evidences a clear legislative intent that the purpose of both provisions is to achieve the same objective – the provision of non-exempt data in the format, device, or medium requested pursuant to §1-211(a), G.S. Thus, the fact that, pursuant to §1-212(b)(2), G.S., an agency may only engage an outside *professional copying service* for the purpose of providing a copy of the record in the requested medium, it stands to reason that the function of the term "as requested" in §1-212(b)(1), G.S., serves the same purpose – a reference to the medium requested pursuant to §1-211(a), G.S.

58. The respondents, in arguing that redactions constitute "formatting," ignore the crux of §1-212(b)(1), G.S., that any "formatting" must be *necessary* to the provision of the copy "on paper, disk, tape, or any other electronic storage device or medium ***requested***." (Emphasis added) See §1-211(a), G.S. In doing so, the respondents render the phrase "as requested" superfluous, and such interpretation must be rejected. Connecticut Podiatric Medical Ass'n v. Health Net of Connecticut, Inc., 302 Conn. 464, 474 (2011) ("[i]t is a basic tenet of statutory construction that the legislature [does] not intend to enact meaningless provisions. . . .[I]n construing statutes, we presume that there is purpose behind every sentence, clause, or phrase used in an act and that no part of a statute is superfluous. . . .").[13]

[13] Moreover, even if redactions may constitute a type of formatting, the respondents' ability to charge fees remain limited to only formatting which is required to produce the copy *as requested.* Whether a redaction must be made is in no way contingent on the medium in which the record is requested. Again, redactions may be necessary for the respondents to comply with their legal obligations, but such obligations exist *regardless* of whether the records are stored in hard copy, on a computer, or in any other format yet to be created. Just as the respondents have a legal

59. Moreover, the Commission notes that paragraphs 46 through 58, above, are consistent with the only court case considering the assessment of fees in relation to redactions, Kozlowski v. Freedom of Info. Comm'n, Docket No. CV-96-0556965, 1997 WL 435860, (July 29, 1997) ("Kozlowski").

60. Kozlowski involved a request to the Department of Motor Vehicles ("DMV") to inspect records of work permit applications submitted to the department by motorists whose operator's licenses had been suspended or revoked. See Id., at *1. The DMV responded that it would permit access to inspect such records, but that the requestor would need to pay associated fees.

61. The records in Kozlowski were *paper records*[14] which contained some sensitive information that the DMV was required by law to redact. In determining what fees could be assessed for such search, the Court reasoned that:

> [In order to permit the requestor to inspect the records], the department would have to ***copy the records***, redact the prohibited names and addresses, and only then allow [the requestor] to inspect the redacted copies of the information he desired. Thus, under the unique circumstances of this case, ***compliance with the complainant's request to inspect records necessarily required the department to make copies of those records***.
>
> . . .
>
> Since [the requestor's] request to inspect public records in this case ***required the department to make copies of those records*** in order to comply with the law, the department was entitled to charge [the requestor] any fees that applicable statutes permit. ***Of course, [the requestor] would be entitled to keep the copies for his own use.***

(Emphasis added) Id., at *2.

62. The court in Kozlowski clearly understood that, because the records at issue were paper records, the DMV would have to make another *copy* of such records so that they could redact the pertinent information. The only other alternative would be for the DMV to redact the *original versions* of the record which would destroy the original records, rendering them useless to the DMV.

63. Kozlowski centers on the cost of providing access (in that case through inspection) to a public record in a prescribed medium. Because such records were paper records, that prescribed medium, pursuant to §1-212(a), G.S., is a physical reproduction of the record (i.e., a

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obligation with respect to protecting privileged communications, so too do they have a legal obligation to provide copies of non-exempt public records.

[14] This is clear from the DMV's assertion that "***there is no computerized index of work permit applications***." Kozlowski, 1997 WL 435860, at *1.

paper copy). Nothing in the court's analysis remotely suggests that the DMV could also charge for the *time* it would take them to redact those copies after they were made.

64. The Commission, in Docket #FIC 2018-0293, Jessica Stedman v. Paul Vogel, Superintendent of Schools, Regional School District #1, et al. (February 13, 2019) ("Stedman"), applied Kozlowski, when the Regional School District # 1 (the "District") charged a requestor $.75 per page for redacted copies of records

65. Unlike Kozlowski, however, the requestor in Stedman, requested computer-stored records (e.g., emails), and also requested that "***any copies be provided to her electronically via email***." Id., at ¶ 3.

66. In Stedman, the Commission found that:

> the superintendent printed out the potentially responsive emails ***because it was easier for her to read them that way, rather than on her computer***, and because she believed that some of the emails might need to be redacted. Although the Commission appreciates that it may be easier for some people to review emails when they are in printed form, as opposed to reading them on a computer screen, ***the FOI Act does not permit a public agency to charge a fee for a copy of a nonexempt electronic record, when the requestor has asked that such record be provided electronically. The Commission takes administrative notice of the fact that there is no cost associated with transmitting a record electronically.***

(Emphasis added). Id., at ¶ 18.

67. The Commission's conclusion in Stedman, turned on whether it was *necessary* for the public agency to print out computer-stored records to make redactions. In Stedman, the Commission recognized that the records at issue were printed out as a matter of convenience for the respondent, as opposed to being necessary to make mandatory redactions. Id, at n. 2. ("[t]he Commission notes, however, that if a public agency receives a request for a copy of, or to inspect a record that contains information that is ***required by law*** to be redacted, and the public agency must make a copy of the record in order to redact such information, the public agency may charge the requestor the statutory fee for that copy.") (Emphasis in original).

68. Additionally, such records were requested to be produced in an electronic format (specifically, email). Therefore, the District was not required to print out the records to provide them in the medium requested. Id. ("[a]ccordingly it is concluded that the respondents violated §§1-211(a) and 1-212(b), G.S., by charging the complainant a copy fee of $.25 per page for unredacted ***paper copies, rather than providing them to her electronically, free of charge as she requested***.") (Emphasis added.)

69. Notably, the District in Stedman,

> conceded at the hearing in [that] matter, that they violated §1-212, G.S., by charging a flat 'redaction fee' for redacted records in

> addition to the copying fee, which resulted in the complainant being charged $.75 per page for redacted copies. At the second hearing in [that] matter the respondents represented that they had refunded the complainant the amount of this redaction fee.

Id., at ¶ 20 (citing Kozlowski).

70. The Commission notes that the respondents' assertion that they can charge for redactions appears to directly conflict with the legislature's own understanding on the matter. Specifically, as noted in Osmond I,

> the Commission takes administrative notice of the many legislative proposals introduced since 2023 seeking to allow law enforcement agencies to charge a redaction fee under certain circumstances for the disclosure of a record created by police body-worn recording equipment and dashboard cameras. *See* Senate Bill 1222, *An Act Concerning Fees for Copying, Reviewing and Redacting Records Created by Police Body-Worn Equipment & Dashboard Cameras* (2023); Senate Bill 431, *An Act Concerning Fees for Copying, Reviewing and Redacting Records Created by Police Body-Worn Recording Equipment Dashboard Cameras* (2024); Senate Bill 973, *An Act Permitting Redaction Fees for the Disclosure of Records Created by Police Body-Worn Recording Equipment or Dashboard Cameras under the Freedom of Information Act* (2025); and Senate Bill 1229, *An Act Concerning Fees for Copying, Reviewing and Redacting Records Created by Police Body-Worn Recording Equipment and Dashboard Cameras* (2025). The Commission further notes that if the respondents' interpretation of §1-212, G.S., were correct, there would be no need for a statute governing redaction of, and fee structure for, the disclosure of body-worn camera and dashboard camera records.

See Osmond I, at ¶ 55.

71. The Commission further takes administrative notice of the Office of Legislative Research's ("OLR") bill analysis accompanying Senate Bill 973, *An Act Permitting Redaction Fees for the Disclosure of Records Created by Police Body-Worn Recording Equipment or Dashboard Cameras under the Freedom of Information Act* (2025), which states that:

> [u]nder existing law, fees for copies of public records (including body and dashboard camera recordings) are set by FOIA unless the law provides otherwise . . . . ***Generally, FOIA does not allow public agencies to charge requestors for the time spent redacting a record.***

(Emphasis added).

72. The Commission fully recognizes that comments of the OLR are not, in and of themselves, evidence of legislative intent. See Harpaz v. Laidlaw Transit, Inc., 286 Conn. 102, n. 15 (2008). Nevertheless, such comments "properly may bear on the legislature's knowledge of interpretative problems that could arise from the bill." Id. The comments in paragraph 71 are, in

that sense, significant as they indicate that the legislature did not consider the proposed legislation to be duplicative of the fees already provided for in the FOI Act. It is unclear, then, how the respondents can purport that their arguments rest on clear legislative intent.

73. In light of the foregoing, it is found that the plain language of §1-212(b), G.S., does not support the respondents' position that time spent redacting records are permissible charges under the FOI Act.

74. It is found, therefore, that the respondents request for prepayment of fees was improperly predicated on labor costs not associated with providing copies of computer-stored records in a requested format as required by §1-211(a), G.S. (e.g., for legal review, including time spent making redactions).

75. It is further found that the respondents failed to prove that the estimated total for legitimate fees equaled or exceeded $10 as required by §1-212(c), G.S.

76. Accordingly, it is concluded that the respondents violated the fee provisions of §1-212, G.S.

77. It is found that because the respondents felt entitled to prepayment for the labor costs described in paragraph 18, above, they refused to conduct a search for records responsive to the complainant's request described in paragraph 2, above.[15]

78. It is further found that the complainant's request described in paragraph 2, above, was not exclusively limited to computer-stored records. It is found that in his request, the complainant specifically stated that "***[i]f*** any documents are available in electronic format, I would like to receive them electronically." (Emphasis added). Accordingly, it is found that the complainant's request also included any paper records not otherwise stored on a computer system.

79. It is found that the respondents presented no evidence as to their efforts to search for paper records that would be responsive to the complainant's request described in paragraph 2, above.

80. It is found, therefore, that the respondents did not provide any of the records responsive to the complainant's request described in paragraph, 2, above.

81. Finally, it appears, while the respondents acknowledge that their obligations under the FOI Act are "primary duties,"[16] such obligations are, in practice, treated by the respondents as subordinate to their other duties. This was made abundantly clear when the respondents' AAG

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[15] Although not separately briefed by the respondents, the Commission rejects the respondents' implication that they need not, in anyway, process requests for records until prepayment is received. Nothing in the prepayment provision of §1-212(c), G.S., suggests that a public agency may refuse to search for records until all estimated fees have been prepaid. In fact, the requirement that public agencies limit their fee estimate to only those fees that are "required or permitted" suggests that such agencies must have some working knowledge of the *actual* records at issue.

[16] In corresponding with the complainant, the respondents' AAG informed the complainant that "FOI Act compliance is one of the primary duties of all public agencies."

testified at the hearing in this matter that "the time [he] was spending [working on the complainant's request] is time that [he's] not doing something that the Attorney General assigned [him] to do for the public." This distinction permeates the entirety of the respondents' argument.

82. The Commission recognizes that public agencies have many other obligations other than those outlined in the FOI Act. However, the way in which the FOI Act balances those obligations is through the promptness requirements of §§1-210(a) and 1-212(a), G.S.

83. In determining whether public agencies have acted in a prompt manner when responding to a records request, the Commission considers many factors including "***the time constraints under which the agency must complete its other work***." See Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (January 11, 1982). Accordingly, if a public agency must complete their other work under particular time constraints, they might reasonably take longer to produce records in response to a request (subject to the particular facts and circumstances of each case).

84. It appears to the Commission that the respondents seek to use §1-212(b)(1), G.S., as a method to manage its various duties, particularly by minimizing its obligations under the FOI Act. In doing so, however, the respondents contort the language of §1-212(b), G.S., to derive an interpretation that flies in the face of the basic tenets of the Act.[17]

85. Accordingly, it is concluded that the respondents violated the promptness and disclosure provisions of §§1-210(a) and 1-212(a), G.S.

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

1. Within thirty (30) days of the Notice of Final Decision in this matter, the respondents shall: (i) conduct a thorough and diligent search for all (both computer-stored and hardcopy) records described in paragraph 2 of the findings, above; and (ii) submit to the Commission an affidavit sworn to or attested by a person with the requisite knowledge describing details of such search which shall include, but not be limited to, the date the search was commenced, the locations searched, and the specific keywords used by the respondents to search computer-stored records. Such affidavit shall be submitted to the Commission via email, at foi@ct.gov, with copy to the complainant.

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[17] The respondents' AAG stated that "its my understanding that the legislature does not want public employees spending their time, unlimited time, for people [to access public records], if there isn't a benefit to the general welfare." This statement flips the legislative intent in passing the FOI Act on its head. It is clear that the legislature viewed open access to public records *as the benefit* to general welfare in and of itself. See ¶¶ 29 and 31, *infra*; see generally, Perkins v. Freedom of Info. Comm'n, 228 Conn. 158 (1993). In passing the language now codified in §1-212(b), G.S., the legislature simply recognized that there are many ways a computer-stored record can be requested, and it is unlikely that public agencies would have the ability to provide such records in every conceivable format or medium. Rather than conditioning access to public records on the varying technological capacities of individual public agencies, the legislature, in passing §1-211(a), G.S., required that a public agency provide a computer-stored record via a requested medium, when they can reasonably do so. It is the costs associated with providing computer-stored records in the format requested pursuant to §1-211(a), G.S., that the fee provisions of §1-212(b), G.S., are designed to address.

2. Within sixty (60) days of conducting such search, the respondents shall provide the complainant with all records responsive to his request described in paragraph 2 of the findings, above, unredacted and free of charge.

3. In complying with paragraph 2 of the order above, the respondents may withhold or redact such records, or portions thereof, that are the subject of a mandatory exemption, including the attorney-client privilege, set forth in § 52-146r, G.S., as incorporated in §1-210(b)(10), G.S.

4. If any records are withheld pursuant to paragraph 3 of this order, above, the respondents shall submit an affidavit sworn to or attested by a person with the requisite knowledge which identifies and briefly describes the withheld record and the statutory basis for withholding the record. Such affidavit shall be submitted within sixty (60) days of the Notice of Final Decision in this matter.

5. If the respondents fail to comply with any order set forth in paragraphs 1 through 4, above, the complainant may file an appeal with the Commission, and such appeal may be afforded expedited treatment. The respondents are cautioned that if, after a hearing, the Commission concludes that they have violated any order herein, the Commission will consider the imposition of a civil penalty for such violation(s).

6. Henceforth, the respondents shall strictly comply with the disclosure provisions of §§1-210(a) and 1-212(a), G.S., and the fee provisions of §1-212(a), 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:

ADAM OSMOND, PO Box 1162, Farmington, CT 06034

ATTORNEY GENERAL, STATE OF CONNECTICUT, OFFICE OF THE ATTORNEY GENERAL; **AND STATE OF CONNECTICUT, OFFICE OF THE ATTORNEY GENERAL** , c/o Assistant Attorney General John Langmaid, Office of the Attorney General, 165 Capitol Ave, Hartford, CT 06106

Jennifer M. Mayo
Acting Clerk of the Commission

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