

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Alika McFarlane,

Complainant

against

Docket # FIC 2025-0250

Chief, Police Department, Town of
Fairfield; Police Department, Town
of Fairfield; and Town of Fairfield,

Respondents

April 8, 2026

The above-captioned matter was heard as a contested case on November 6, 2025, at which time 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 et al., Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

On December 23, 2025, pursuant to an order of the hearing officer, the respondents submitted an after-filed exhibit, which has been marked, without objection, as: Respondents' Exhibit 3 (after-filed): March 25, 2025 records production.¹

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 letter dated March 18, 2025, the complainant made a request for copies of records pertaining to the complainant's arrest on November 2, 2018, including:

- (a) Any and all police reports, statements, incident reports, names, badge numbers, and notes.

¹ The Commission notes that the respondents were also ordered to provide a copy of the signed acknowledgement of receipt of records produced on October 9, 2025. In their December 23, 2025 submission, the respondents indicated that they had not yet received the signed acknowledgement but would submit it upon receipt. As of March 31, 2026, the respondents have not submitted the receipt of acknowledgement.

- (b) Any and all reports of misconduct by any police officer and investigator involved.
- (c) Body camera footage and dash camera footage.
- (d) Copies of any and all seized evidence, including photographs, and chain of custody of such seized evidence.
- (e) Search warrants for seized evidence.
- (f) Any and all files, emails, text messages, and documents that relate to probable cause for the arrest.
- (g) Video footage of the arrest and custody of complainant, as well as footage of the lobby and booking area by the Fairfield Police Department.
- (h) Any and all related test results of seized evidence.

3. It is found that, by letter dated March 25, 2025, the respondents mailed the complainant a copy of the following records in response to his March 18, 2025 request, described in paragraph 2, above: Case/Incident Report (with partial redactions); Laboratory Controlled Substance Report; Inventory of Evidence; Property Disposed print-outs; Case Incident Property List; Evidence Photos; Return of Compliance; and a notice of an updated appearance form. The respondents also informed the complainant that “[t]he court ordered all evidence to be destroyed on 01/07/2025 and the Fairfield Police Department complied with the order on 02/13/2025”; and that the respondent Police Department “was not equipped with body camera at the time of [the complainant’s] arrest.”

4. By letter of complaint, dated April 8, 2025, and filed on April 14, 2025, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide records responsive to the request described in paragraph 2, above.

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 section 1-218, whether such data or information be handwritten, typed, videotaped, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

Except 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 that “[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, described in paragraph 2, above, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that by the end of April or beginning of May 2025, the complainant received the respondents’ March 25, 2025 letter with the Case/Incident Report (with partial redactions), only.

10. It is found that, by emails dated October 9, 2025, and December 22, 2025, respectively, the respondents sent copies of the records described in paragraph 3, above, to the complainant via email to the Department of Correction’s (“DOC”) FOI Administrator, Counselor Supervisor Secore.

11. It is found that, by emails dated October 9, 2025, and December 23, 2025, respectively, the DOC responded to the respondents’ emails, described in paragraph 10, above, and advised that they would review and forward the records to the complainant’s housing facility. They also advised that they would inform the respondents if they made any additional redactions as well as provide a signed receipt from the complainant.²

12. At the contested case hearing in this matter, the complainant acknowledged that he had received a copy of the requested incident report but contended that the respondents had failed to provide him with copies of all records responsive to his request,

²The process for providing records to an inmate is governed by §1-210(c), G.S. Section 1-210(c), G.S., provides that “[w]hen a public agency receives a request from any person confined in a correctional institution . . . for disclosure of any public record under the [FOI] Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner . . . of such request, in the manner prescribed by the commissioner, before complying with the request as required by the [FOI] Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person’s correctional institution”

Pursuant to the policy implementing §1-210(c), G.S., records requested by an inmate should be delivered to the DOC FOI Administrator for review to determine whether such records or portions thereof are exempt from disclosure pursuant to §1-210(b)(18), G.S. Records, or portions thereof, deemed to be exempt from disclosure may be withheld by the Administrator. Records deemed to be non-exempt should be delivered promptly to the inmate. If the Administrator withholds any records, the Administrator must promptly notify the inmate in writing and provide the reason for such withholding. An inmate who believes that any records have been improperly withheld by the Administrator may appeal to the Commission.

described in paragraph 2, above. The respondents contended that they had provided the complainant with all responsive records that they maintain.

13. With respect to the request described in paragraph 2(a), above, it is found that the respondents provided to the complainant a copy of the requested incident report,³ with partial redactions. The complainant challenged such redactions at the contested case hearing on this matter.

14. Pursuant to an order of the hearing officer, the respondents submitted copies of the records described in paragraph 13, above, for in camera inspection, along with an Index to Records Submitted for In Camera Inspection. Such in camera records are hereinafter described as IC2025-0250-1 through IC2025-0250-3.

15. On the in camera Index, the respondents claimed that portions of the in camera records were exempt from disclosure pursuant to § 1-210(b)(3)(H), G.S. At the contested case hearing on this matter, respondents also claimed that such records were withheld because certain criminal charges against the complainant and another individual had been nolle.

16. The complainant also testified that certain criminal charges were nolle.

17. Section 52-142a, G.S., which is Connecticut's erasure statute, provides in relevant part:

(a) Whenever in any criminal case . . . the accused, by a final judgment, is found not guilty of the charge or the charge is dismissed, all police and court records and records of any state's attorney pertaining to such charge shall be erased upon the expiration of the time to file a writ of error or take an appeal, if an appeal is not taken, or upon final determination of the appeal sustaining a finding of not guilty or a dismissal, if an appeal is taken....

(c)(1) Whenever any charge in a criminal case has been nolle in the Superior Court, or in the Court of Common Pleas, if at least thirteen months have elapsed since such nolle, all police and court records of the state's or prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased. . .

18. In Comm'r v. Freedom of Info. Comm'n, No. HHBCV146027085S, 2019 WL 4201551 (Conn. Super. Ct. Aug. 20, 2019); ("Commissioner") the court concluded

³ The incident report included the names, badge numbers, titles and notes of the police and investigating officers.

that, when a charge is subject to erasure pursuant to §54-142a, G.S., that does not necessarily mean that all law enforcement records from the underlying incident or investigation are barred from disclosure. Instead, only records “pertaining to [a] charge” that results in a dismissal, nolle, or acquittal are deemed erased pursuant to §§54-142a(a) and (c), G.S. Similarly, pursuant to §54-142a(e)(1), G.S., law enforcement agencies are only prohibited from disclosing “information pertaining to any charge erased under any provision of [§54-142a].” (Emphasis added.) In Commissioner, the court analyzed the phrase “pertaining to [an erased] charge” and concluded that §54-142a, G.S., prohibits disclosure of “‘descriptive information’ that discloses ‘when or where a person was arrested, the nature of or circumstances surrounding the crime charged or the names of witnesses from whom further information may be obtained.’” Commissioner, 2019 WL at *13, quoting State v. West, 192 Conn. 488, 496 (1984).

19. Based upon careful consideration of the evidence in the record, including a careful inspection of the in camera records, it is found that the redacted portions of the in camera records described in paragraph 13, above, pertain to criminal charges that were nolle. It is further found that more than thirteen months have elapsed since such nolle was entered. Accordingly, it is found that such records are erased pursuant to §54-142a, G.S.

20. It is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding the redacted portions of the in camera records described in paragraph 13, above, from the complainant.⁴

21. With respect to the request described in paragraph 2(b), above, the respondents testified, and it is found, that they searched their computer system, LEAS, also known as NexGen, as well as physical personnel files for records of misconduct by officers involved in the November 2, 2018 arrest. The respondents also testified, and it is found, that they did not locate any responsive records relating to misconduct. It is therefore found that the respondents do not maintain any records responsive to the complainant’s request described in paragraph 2(b), above. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to such request.

22. With respect to the request described in paragraph 2(c), above, the respondents testified, and it is found, that at the time of the November 2, 2018 incident, the respondent Police Department did not possess or use body cameras or dash cameras.⁵ It is therefore found that the respondents do not maintain any records responsive to the complainant’s request described in paragraph 2(c), above. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to such request.

⁴ In light of the conclusion in paragraph 20, above, the respondents’ additional claim of exemption shall not be further addressed herein.

⁵ The respondents testified, and it is found, that they started using body cameras and dash cameras in 2020.

23. With respect to the request described in paragraph 2(d), above, the respondents testified, and it is found, that they provided to the complainant copies of all records related to seized evidence, including photographs, and chain of custody records in their possession. The respondents testified, and it is found, that they checked NexGen for responsive electronic evidence records, and typically would also check the physical evidence box, but did not do so in this case because the evidence was destroyed pursuant to a court order. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to such request.

24. With respect to the request described in paragraph 2(g), above, the respondents testified, and it is found, that the respondents had video recordings at the time of the November 2, 2018 incident, but the video recordings had been deleted prior to the complainant's request. The respondents also testified, and it is found, that they believe, at most, video is retained for two years. It is found that the complainant's request for records, including video footage was made approximately six years and four months after the date of the November 2, 2018 incident.⁶

25. It is found that, at the time of the March 18, 2025 request, the respondents did not maintain any records responsive to the complainant's request described in paragraph 2(g), above. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to such request.

26. With respect to the request described in paragraph 2(h), above, the respondents testified, and it is found, that they provided the complainant with a copy of the laboratory controlled substance report. The respondents also testified, and it is found, that the controlled substance report was the only report of evidence testing. It is found that the respondents provided the complainant with all records responsive to the request described in paragraph 2(h), above. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to such request.

27. With respect to the request described in paragraph 2(e), above, the respondents testified that they did not maintain signed search warrants, and that such records are only maintained by the court. The respondents further testified that their practice was to withhold unsigned search warrants as 'drafts,' despite the fact that the unsigned version of such warrants is the only copy of the warrant that they maintain.⁷

28. It is found that, as of the time of the contested case hearing, the respondents had failed to provide a copy of the unsigned search warrant to the complainant.

⁶ It is well settled that this Commission does not have jurisdiction over matters relating to the retention and destruction of public records. That authority rests with the Public Records Administrator. See Jon Schoenhorn v. Comm'r, State of Conn., Dep't of Emergency Serv. & Pub. Prot., et al., Docket #FIC 2022-0598 (Oct. 11, 2023).

⁷ The respondents represented at the contested case hearing in this matter that they would provide the complainant with a copy of the unsigned search warrant.

29. It is therefore concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to the request described in paragraph 2(e), above.

30. With respect to the request described in paragraph 2(f), above, the respondents testified, and it is found, that they did not search for responsive communications because they did not have any key words from the complainant. The respondents also testified, and it is found, that without a keyword to search for responsive emails or text messages, they would not run a search for responsive records. The respondents further testified, and it is found, that they did not contact the complainant to ask for search terms.⁸

31. The respondents also testified that while they can search by name or date for potentially responsive texts or emails, they had not done so in this matter.

32. It is therefore concluded that the respondents failed to conduct a thorough search for records responsive to the request described in paragraph 2(f), above. Accordingly, it is further concluded that the respondents violated the disclosure provisions of §§1-210(a) and 1-212(a), G.S., with respect to such request.

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 date of the Notice of Final Decision, the respondents shall provide the complainant with the unsigned warrant, referenced in paragraphs 2(e) and 27 of the findings, above, as well as run a search for responsive text messages and emails, referenced in paragraphs 2(f) and 30 of the findings, above.

2. Within forty-five (45) days of the date of the Notice of Final Decision, the respondents shall provide an affidavit to the complainant and the Commission prepared by someone with the requisite knowledge detailing the nature and scope of the search. If, after a thorough and diligent search, the respondents are unable to locate such records, the respondents shall so state in the affidavit. If the respondents are able to locate such records, the respondents shall so state in the affidavit and provide a copy of such records to the complainant, free of charge.

3. Henceforth, the respondents shall strictly comply with the requirements of §§1-210(a) and 1-212(a), G.S.

⁸ The respondents represented at the contested case hearing in this matter that they would conduct a search for responsive text messages and emails using the date of the incident (i.e., November 2, 2018) as well as the complainant's name, and provide copies of any responsive records located.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 8, 2026.



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:

ALIKA MCFARLANE, #357299, MacDougall-Walker Correctional Institution,
1153 East Street, South, Suffield, CT 06080

**CHIEF, POLICE DEPARTMENT, TOWN OF FAIRFIELD; POLICE
DEPARTMENT, TOWN OF FAIRFIELD; AND TOWN OF FAIRFIELD**, c/o
Attorney Philip C. Pires, Cohen and Wolf, P.C., 1115 Broad Street, Bridgeport, CT
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Jennifer M. Mayo
Acting Clerk of the Commission