

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Edward Heath,

Complainant

against

Docket #FIC 2025-0772

Chief, Police Department, Town of Old Saybrook; Police Department, Town of Old Saybrook; and Town of Old Saybrook,

Respondents

August 12, 2026

The above-captioned matter was heard as a contested case on June 3, 2026, at which time the complainant and the respondents appeared, stipulated to certain facts 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, by letter dated August 10, 2025, the complainant requested copies of “all records of any kind, including, but not limited to, video, documents, emails, and reports, regarding [the complainant’s] arrest on or about March 12, 2022.”
3. It is found that, by letter dated August 12, 2025, the respondents acknowledged the complainant’s records request and informed the complainant that a search of their records indicated that they did not maintain any records associated with such request.
4. By letter of complaint, dated August 18, 2025 and filed August 25, 2025, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records, described in paragraph 2, above. The complainant also alleged that, in the event that the respondents no longer maintained such records, they were in violation of “records retention laws, regulation, and policy.”¹

¹ The Commission notes that jurisdiction over the retention and destruction of public records rests with the State’s Public Records Administrator, and as such, the complainant’s allegation with respect to record retention will not be further addressed herein. See *Dept. of Public Safety v. Freedom of Info. Comm’n*, 103 Conn. App. 571, 577 (2007) (the Commission is a creature of statute with limited jurisdiction; it can only administer and enforce the provisions set forth in the FOI Act).

5. Section 1-200(5), G.S., provides:

“[p]ublic records or files” means any recorded data or information relating to the conduct of the public’s business prepared, owned, used, received or retained by a public agency, or to which a public agency is entitled to receive a copy by law or contract under 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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

[e]xcept as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to ... (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides, in relevant part: “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is concluded that the requested records, 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. At the June 3, 2026 hearing on this matter, the complainant testified, and it is found, that, although he requested the records described in paragraph 2, above, multiple times, he was only provided with a portion of responsive records, which include a court abstract from the superior court, a police report, a signed witness statement and bodycam video footage from one police officer, and that such records were only provided to him shortly before the date of the originally scheduled hearing on this matter.² At the June 3, 2026 hearing, the complainant also requested, for the first time, the imposition of a civil penalty against the respondents.

10. The respondents contend, however, that the requested records had been erased by order of the Superior Court because the charges related to the complainant’s arrest, described in paragraph 2, above, were nolle.

11. Section 54-142a(c), G.S., provides, in relevant part:

(1) [w]henver any charge in a criminal case has been nolle in the Superior Court ... if at least thirteen months have elapsed since such nolle, all police and court records and records of any state’s or

² The Commission notes that this matter was first scheduled to convene on April 7, 2026, but the matter was postponed at the request of the respondents.

prosecuting attorney or the prosecuting grand juror pertaining to such charge shall be erased ...

12. Section 54-142c, G.S., provides, in relevant part, as follows:

(a) [t]he clerk of the court or any person charged with retention and control of erased records by the Chief Court Administrator or any criminal justice agency having information contained in such erased records shall not disclose to anyone the existence of such erased records or information pertaining to any charge erased under any provision of this part, except as otherwise provided in this chapter.

13. For purposes of §54-142c, G.S., a “criminal justice agency” is defined as including “any...government agency created by statute which is authorized by law and engages, in fact, as its principal function in activities constituting the administration of criminal justice, including but not limited to, organized municipal police departments....”

14. It is concluded that the respondent police department is a criminal justice agency within the meaning of §54-142c, G.S.

15. It is found that, on June 3, 2023, the Superior Court ordered that the records described in paragraph 2, above, be erased.

16. As stated by our Supreme Court, the obvious purpose of the erasure statute is to protect an individual from the harmful consequences of a criminal charge of which he is subsequently acquitted, or which charge is ultimately dismissed or nolle. See State v. West, 192 Conn. 488, 496 (1984) (“West”). However, “[e]rasure does not mean physical destruction of the records. ‘Rather it involves sealing the files and segregating them from materials which have not been erased and protecting them from disclosure, except that disclosure is permitted in a few, very limited circumstances described in the statutes.’”³ State v. Anonymous, 237 Conn. 501, 512 (1996), quoting West, 192 Conn. at 495.

17. In Comm'r v. Freedom of Info. Comm'n, No. HHBCV146027085S, 2019 WL 4201551 (August 20, 2019), the superior court expanded on the standard articulated earlier by the Supreme Court in West. The court in Comm'r v. Freedom of Info. Comm'n held that:

the erasure statute includes ‘transcripts, police reports, charging documents and other records covered by § 54-142a,’ **including all records that disclose ‘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.’

Comm'r v. Freedom of Info. Comm'n, at *17, quoting West, 192 Conn. at 496 (emphasis added).

³ See FN 4, below.

18. It is found that the respondents conducted a diligent and thorough search for records responsive to the request described in paragraph 2, above. It is also found that the respondents located and provided to the complainant all such responsive records related to his arrest, as described in paragraph 2, above. It is further found, however, that the responsive records provided to the complainant, including the court abstract, police report, signed witness statement, and bodycam video footage, contain information that discloses when and where he was arrested and the nature of or circumstances surrounding the crime charged.

19. It is therefore found that the records described in paragraph 18, above, were “erased” within the meaning of §54-142a, G.S., and that all such records are exempt from disclosure pursuant to §54-142a, G.S.⁴

20. Accordingly, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

21. Based upon the foregoing conclusion, the complainant’s request for the imposition of a civil penalty need not be addressed further herein.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 12, 2026.

Jennifer M. Mayo
Acting Clerk of the Commission

⁴ The Commission notes that although the complainant, as the subject of the requested records, may be entitled to receive such records pursuant to §§54-142a(f) or 54-142a(g), G.S., the FOI Act vindicates the public’s right to access public records, rather than a particular person’s specific rights. See Chief of Police v. FOI Comm’n, 252 Conn. 337, 387 (2000) (“[W]hether records are disclosable under the [FOI Act] does not depend in any way on the status or motive of the applicant for disclosure, because the act vindicates the public’s right to know, rather than the rights of any individual.”). The Commission, therefore, lacks jurisdiction to enforce a private right of access to the requested records, should one exist.

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:

EDWARD HEATH, PO Box 871, Madison, CT 06443-0871

CHIEF, POLICE DEPARTMENT, TOWN OF OLD SAYBROOK; POLICE DEPARTMENT, TOWN OF OLD SAYBROOK; AND TOWN OF OLD SAYBROOK,
c/o Attorney Patrick J. McHale, Kainen, Escalera & McHale, P.C., 21 Oak Street, Suite 601,
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Jennifer M. Mayo
Acting Clerk of the Commission