

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Christopher Reh,

Complainant

against

Docket #FIC 2025-0627

Nancy Navarretta, Commissioner, State of
Connecticut, Department of Mental Health
and Addiction Services; and State of
Connecticut, Department of Mental Health
and Addiction Services,

Respondents

July 8, 2026

The above-captioned matter was heard as a contested case on April 15, 2026 and June 16, 2026, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The complainant, who was involuntarily committed to Whiting Forensic Hospital, appeared at the April 15, 2026 hearing via teleconference, and, subsequently, attended the June 16th hearing in person.

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 February 6, 2025, the complainant requested paper copies of all emails regarding himself, sent or received by six employees of Whiting Forensic Hospital (“February 6th request”).¹
3. It is found that, by letter dated February 24, 2025, the respondents acknowledged the complainant’s request described in paragraph 2, above.
4. It is found that, by email dated March 4, 2025, and sent on behalf of the complainant from SpadesUpAdvocacy@protonmail.com (“SpadesUp email”), the complainant attempted to amend his request described in paragraph 2, above.

¹ The Commission notes that, although the February 6th request is not at issue in this complaint, the substance of the records responsive to such request, as further described in paragraph 27, below, is encompassed within the complainant’s broader records request, described in paragraph 8, below, that is at issue in this complaint.

5. It is found that attached to the SpadesUp email, described in paragraph 4, above, was a letter dated March 4, 2025 (“March 4th request”), from the complainant, requesting paper copies of all emails that reference the complainant, from January 9, 2022 through March 4, 2025, as follows:

- (a) “sent or received by any DMHAS staff, including Whiting Forensic Hospital employees”;
- (b) “between DMHAS and the Psychiatric Security Review Board (PSRB)”;
- (c) “between DMHAS and the Department of Public Health (DPH)”;
- (d) “between DMHAS and the Office of the Attorney General”; and
- (e) “between DMHAS and any external agency, media organization, advocacy group, or law enforcement entity”.

6. It is found that, by email dated March 4, 2025, the respondents acknowledged the March 4th request, and sought clarification from the sender of the email as to whether the March 4th request was “meant to serve as a separate [Freedom of Information (“FOI”) Act] request from” the complainant’s February 6th request.

7. It is found that the respondents did not receive a response to their March 4th email described in paragraph 6, above.²

8. It is found, however, that by letter dated June 23, 2025, the complainant amended his March 4th request to require that he be provided with electronic copies of all records responsive to the March 4th request, that all fees associated with such records be waived, and that the respondents produce responsive records on a rolling basis (“June 23rd request”). It is also found that, in the June 23rd request, the complainant, as the subject of the requested records, waived “any confidentiality that might otherwise bar disclosure.”

9. It is found that, by letter dated June 26, 2025, the respondents acknowledged the complainant’s June 23rd request.

10. By letter of complaint, dated July 16, 2025 and filed July 17, 2025, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to promptly provide electronic copies of records responsive to his June 23rd request, described in paragraph 8, above. The complainant also requested the imposition of a civil penalty against the respondents.

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

² The Commission notes that, in the SpadesUp email, the sender requested that the respondents direct all correspondence to the complainant, personally, at the address provided in the March 4th request attached to such email.

“[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.

12. 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.

13. 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.”

14. It is concluded that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.³

15. It is found that, on March 25, 2026, the respondents attempted to provide the complainant with paper copies of records responsive to his February 6th request, with certain redactions (“March 25th records”). It is also found that the complainant refused to accept custody of the March 25th records because such records were redacted and because such records were provided in paper, rather than electronic, form.

Redacted Records

16. At the hearings on this matter, the respondents represented that the only redactions made to the March 25th records were the names and email addresses of certain employees of

³ The Commission notes that, subject to the complainant’s waiver, described in paragraph 8, above, the respondents did not argue that the requested records were not public records with respect to the complainant’s request. The Commission also notes that the complainant understood that any records he obtained through the FOI Act, subject to his waiver, would be considered public records and could be disclosed to the general public. At the conclusion of the June 16th hearing on this matter, the respondents did, however, assert that such records would not be provided in response to future FOI requests made by other members of the public, without first obtaining another waiver from the complainant. As such assertion is beyond the scope of this complaint, the Commission declines to consider the respondents’ position with respect to future FOI requests, and such assertion will not be further addressed herein.

Whiting Forensic Hospital and the names of other patients at Whiting Forensic Hospital, which the respondents were withholding pursuant to §1-210(b)(18), G.S.⁴

17. The complainant asserted that he did not challenge the respondents' withholding of names of other patients contained in responsive records and that he was not requesting social security numbers or other personally identifying information.⁵ The complainant did challenge, however, the withholding of the names and email addresses of employees at Whiting Forensic Hospital.

18. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of "[r]ecords, the disclosure of which ... as it applies to Whiting Forensic Hospital, the Commissioner of Mental Health and Addiction Services, has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in ... Whiting Forensic Hospital."

19. The Commission's role in reviewing the Commissioner's safety risk determination under §1-210(b)(18), G.S., is to determine "whether the [Commissioner's] reasons were pretextual and not bona fide, or irrational." See Comm'r v. Freedom of Info. Comm'n, 46 Conn. L. Rptr. 533, 2008 WL 4926910, at *5 (Conn. Sup. Ct. Nov. 3, 2008) (describing the Commission's role in reviewing the Commissioner of the Department of Correction's safety risk determination under §1-210(b)(18), G.S.).

20. At the June 16, 2025 hearing in this matter, the Chief Executive Officer for Whiting Forensic Hospital ("Chief Executive Officer") testified, and it is found, that the Commissioner of the respondent Department of Mental Health and Addiction Services ("DHMAS") asked him to review the March 25th records to determine whether portions of such records should be withheld from disclosure pursuant to §1-210(b)(18), G.S. The Chief Executive Officer also testified, and it is found, that he conferred with the Chief Medical Officer and the Chief of Forensic Services at Whiting Forensic Hospital, and all three agreed that the names and email addresses of employees at Whiting Forensic Hospital that are contained in the responsive records should be withheld from disclosure pursuant to §1-210(b)(18), G.S. The Chief Executive Officer further testified, and it is found, that they came to this determination based upon the content contained within the responsive emails and the complainant's history of adversarial relationships with multiple units' staff within Whiting Forensic Hospital. It is found that they believed that there may be a risk of harm to the identified employees at Whiting Forensic Hospital, if their identities were disclosed to the complainant.

⁴ At the conclusion of the June 16th hearing on this matter, the complainant requested that the Commission order the respondents to submit electronic copies of the March 25th records for in camera inspection. It is found that the hearing officer declined to issue such order for in camera inspection for two reasons: (i) the character and nature of the withheld information was not at issue between the parties, only whether such information was permissibly exempt pursuant to §1-210(b)(18), G.S. (see Wilson v. Freedom of Info. Comm'n, 181 Conn. 324, 338-41 (1980)); and (ii) as described in more detail in paragraph 37, below, it would be impracticable to issue an in camera order to inspect electronic copies of the March 25th records prior to the expiration of the Commission's jurisdiction over this matter, which would occur on July 16, 2026.

⁵ The complainant also requested that his own social security number be redacted from such records.

21. The complainant argued that the majority of the information contained in the March 25th records, including the identities of certain employees of Whiting Forensic Hospital, would be made known to him during Psychiatric Security Review Board (“PSRB”) proceedings, which are open to the public, and therefore, the withheld names and emails should be provided to him.

22. The Chief Executive Officer testified, however, and it is found, that while PSRB hearings are open to the public, what is said at such hearings and how it is communicated is very different than the way such information is conveyed in internal emails. The Chief Executive Officer also testified, and it is found, that there is additional information in such emails that would not be part of a PSRB hearing and there are additional employees identified in the emails whose identities would not be disclosed at a PSRB hearing.

23. The Chief Executive Officer testified, and it is found, that he shared with the Commissioner of DHMAS the recommendation that, pursuant to §1-210(b)(18), G.S., the respondents withhold from disclosure the names and email addresses of the Whiting Forensic Hospital employees identified in the responsive records, and the Commissioner agreed that such information should be withheld.

24. Based upon the foregoing, it is found that the Commissioner of DHMAS had reasonable grounds to believe that disclosure of the names and email addresses of certain employees of Whiting Forensic Hospital in response to the complainant’s records requests, above, may result in a safety risk, including the risk of harm to a person or the risk of an escape from, or a disorder in Whiting Forensic Hospital, within the meaning of §1-210(b)(18), G.S. It is further found that the reasons given are bona fide and were not pretextual or irrational.

25. It is therefore found that the information described in paragraph 24, above, is exempt from disclosure pursuant to §1-210(b)(18), G.S. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., by withholding such information from the complainant.

Format of Requested Records

26. It is found that, in his June 23rd request, the complainant amended his March 4th request to require that he be provided with electronic copies of responsive records. The complainant also testified, and it is found, that he refused to accept paper copies of responsive records because he wanted such copies in their “native electronic form”.

27. The respondents testified, and it is found, that between March 25, 2026 and June 15, 2026, on five separate occasions, the respondents attempted to provide the complainant with paper copies of the March 25th records, free of charge. It is also found that the March 25th records are encompassed within the broader June 23rd request and would be responsive to such request, if accepted by the complainant in lieu of electronic copies.

28. At the June 16th hearing on this matter, the respondents argued that §1-212(a), G.S., gives the responding public agency discretion over whether to provide electronic or paper copies of responsive records, regardless of the complainant’s request. It is found, however, that such

argument is untenable and has been unequivocally rejected by Connecticut courts and this Commission.

29. Section 1-211(a), G.S., provides, in relevant part, as follows:

[a]ny public agency which maintains public records in a computer storage system shall provide, to any person making a request pursuant to the [FOI] Act, a copy of any 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. . . . (Emphasis added.)

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

- (a) Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record. The type of copy provided shall be within the discretion of the public agency, except (1) the agency shall provide a certified copy whenever requested, and (2) if the applicant does not have access to a computer or facsimile machine, the public agency shall not send the applicant an electronic or facsimile copy
- (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 that the agency responds to the request for such copy, an agency may include only:
 - (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 necessary to provide the copy as requested
 - (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

31. This Commission has regularly held, and the courts have affirmed, that §1-211(a), G.S., specifically covers the disclosure of computer-stored public records, while §1-212(a), G.S., covers the disclosure of public records that are not computer-stored, but allows public agencies some discretion to decide how they provide such records to the requester, including whether to provide such records electronically (e.g., via email).

32. It is found that “paper, disk, tape and any other electronic storage device or medium,” as used in §1-211(a), G.S., are all methods of delivery of computer-stored public records that the requester may dictate; whereas “plain, facsimile, electronic or certified copy” are all methods of delivery of non-computer stored public records, pursuant to §1-212(a), G.S.

33. In Taconic Data Corp. v. Town Clerk, Town of Suffield, No. CV 970572137, 1998 WL 323437, at *1-2 (Conn. Super. Ct. June 10, 1998) (“Taconic Data Corp.”), the court held, as a preliminary matter, that §1-19a, G.S. (now codified as §1-211, G.S.), entitles the requester of electronic records to receive such records in electronic format. The court stated:

[the requester] requested the records in electronic format.

...

There is no question that [the requester] was entitled under §1-19a, G.S. [now codified as §1-211, G.S.], to the documents in electronic format.

...

The [requester] demonstrated at the FOIC hearing that it was requesting electronic data; it was not interested in a printout of the documents.

...

Prior to the enactment of Public Act 91-347, §1-19a [now codified as §1-211, G.S.], required only that: ‘Any public agency which maintains its records in a computer storage 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 ...’

See also Hartford Courant Co. v. Freedom of Info. Comm’n, 261 Conn. 86, 94 (2002) (“Courant”) (discussing the clear legislative history behind Public Act 91-347 (now codified as §1-211, G.S.), with respect to requests for electronically stored records).

34. In this case, it is found that the requested records are emails and the attachments thereto, which are maintained in a computer storage system.

35. It is therefore found that the respondents were required to provide electronic copies of the responsive records to the complainant, as requested, if they could reasonably make such copies. See Courant, 261 Conn. at 93.

36. Moreover, our Supreme Court has held that, pursuant to §§1-211(a) and 1-212(b), G.S., if a public agency cannot comply with a records request because it does not have the technological capability to separate exempt from nonexempt data, such request still falls within the scope of the FOI Act. Courant, 261 Conn. at 94. “[Section] 1-211(a) places the burden on the public agency to demonstrate that it cannot reasonably make the copy requested.” Id. at 97. Accordingly, the disclosing agency must comply with the request by either developing a program or contracting with an outside entity to develop a program, provided that the requester is willing to cover the associated cost. Id. at 94-95. See also Maher v. Freedom of Info. Comm’n, 192 Conn. 310, 316 (1984).⁶

37. It is found that the respondents in this matter, however, did not testify that they lacked the technological capability to separate exempt and nonexempt data from the requested records. In fact, the respondents testified, and it is found, that they had the requisite technology to make redactions to electronic records.

38. At the June 16th hearing on this matter, a Paralegal Specialist for the respondents (“paralegal”) testified, and it is found, that the respondents have the technology to make redactions to electronic records, lock such redactions, and then provide electronic records to requesters with the exempt information safely withheld. The paralegal also testified, however, and it is found, that the Chief Executive Officer personally redacted the electronic versions of the March 25th records, and because he does not normally perform this type of work, he did so incorrectly, and therefore, such redacted electronic records could not be disclosed in a way that locked the exempt information. The paralegal further testified, and it is found, that the respondents could go back and properly redact the electronic versions of the March 25th records, but estimated that it would take approximately forty hours of work to do so.

39. It is found, however, that the testimony described in paragraph 38, above, does not mean that electronic copies of responsive records cannot reasonably be made. It is found, rather, that the respondents made a mistake when redacting such electronic records and did not want to go back and properly redact the electronic versions of such records because it would take a long time to fix their mistake.

40. It is therefore concluded that the respondents violated the provisions of §§1-210(a), 1-211(a), and 1-212(a), G.S., by not providing the complainant with electronic copies of computer stored records in response to his June 23rd request.

Promptness

41. With regard to the complainant’s allegation that the respondents failed to disclose records promptly, this Commission takes guidance from Advisory Opinion #51, In the Matter of

⁶ The Commission notes that the Appellate Court recently reaffirmed Courant and Maher in Town of Greenwich v. FOI Commission, 226 Conn. App. 40, cert. denied, 349 Conn. 924 (2024).

a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant
(Notice of Final Decision dated January 11, 1982).

42. In Advisory Opinion #51, the Commission advised that the word “promptly,” as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. As the court recognized in Commissioner of Department of Emergency Services and Public Protection v. Freedom of Info. Comm’n, HHBCV186047741, 2020 WL 5540637, at *6 (Conn. Super. Ct. July 2, 2020), a public agency should consider its obligations under the FOI Act as a “primary duty” of that agency, “on par with the [agency’s] other significant duties, or said another way, that the agency’s FOIA duty is not a second class duty.”

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

44. It is found that the requested records are of high importance to the complainant and that, in his June 23rd request, the complainant requested that responsive electronic records be produced on a rolling basis, with the first provision of such records provided to him within ten business days of his request.

45. It is also found, however, that multiple issues complicated the provision of responsive records. The respondents testified, and it is found, that they were confused by the multiple, interrelated records requests sent by the complainant, dated February 6, 2025 and March 4, 2025, and that when they sought clarification of his March 4th request, they did not receive any response from the sender of the SpadesUp email.⁷ The respondents also testified, and it is found, that they were focusing on providing records responsive to the complainant’s February 6th request, before moving to his broader, subsequent June 23rd request. It is also found that, due to the nature of the requested records, the respondents requested a waiver of confidentiality from the complainant as to such records, and there is no evidence that he waived such confidentiality prior to the June 23rd request.⁸

46. It is also found that, although the respondents did not provide testimony or evidence directly from an IT services expert, the respondents did testify as to their understanding of how complicated and expansive it would be to search for all records responsive to the June 23rd request. The respondents also testified, and it is found, that because the email addresses of

⁷ It is found that, although the SpadesUp email directs all correspondence to the complainant, it does not explain why the sender of such email would decline to reply, in any way, to a request for clarification from the respondents, nor does it diminish the respondents’ confusion.

⁸ The Commission notes that the complainant refused to sign a separate waiver provided by the respondents, in order to allow their witnesses to provide certain testimony to substantiate their claim of exemption pursuant §1-210(b)(18), G.S., until the purpose of such waiver was explained to the complainant’s satisfaction at the June 16th hearing.

DMHAS staff are encrypted, searching all staff emails for all the communications requested, as described in paragraph 5, above, is highly complicated and would take IT services an exceedingly long time. The respondents further testified as to their belief that such a request would likely take over a year to complete. The respondents also testified, and it is found, that due to these factors, the respondents believed that they needed further clarification regarding the complainant's June 23rd request.⁹

47. It is concluded, based upon the facts and circumstances of this case, that the respondents did not violate the promptness requirements in §§1-210(a) and 1-212(a), G.S., as alleged by the complainant with respect to the June 23rd request.

Civil Penalty

48. Based upon all of the foregoing, the Commission, in its discretion, declines to consider the imposition of a civil penalty against the respondents.

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

1. Within forty-five (45) days of the date of the Notice of Final Decision in this matter, the respondents shall provide the complainant with unredacted electronic copies of the March 25th records described in paragraph 15 of the findings, above, free of charge.

2. The respondents shall continue to search for and provide additional electronic copies of the records described in paragraph 5 of the findings, above, to the complainant on a rolling basis, free of charge. The respondents and the complainant are encouraged to work together to come to a good faith agreement on prioritizing responsive records and developing a schedule for the provision of such records.

3. In complying with paragraphs 1 and 2 of the order, above, the respondents may redact the names and email addresses of certain employees of Whiting Forensic Hospital, as referenced in paragraphs 24 and 25 of the findings, above, as well as the names of other patients at Whiting Forensic Hospital and any personally identifying information, as described in paragraph 17 of the findings, above.

4. Based on the unique facts and circumstances presented in this matter, in complying with paragraph 2 of the order, above, the respondents may also withhold records, or portions thereof, that are properly exempt from disclosure pursuant to the FOI Act or not subject to disclosure pursuant to state statute or federal law.

5. If any records, or portions thereof, are withheld pursuant to paragraph 4 of the order, above, the respondents shall submit an affidavit to the complainant that is sworn to or attested by a person with the requisite knowledge identifying and briefly describing the withheld

⁹ The Commission notes that a records request that is simply burdensome does not relieve a public agency from its obligations to comply with such request under the FOI Act. See Corporation Counsel of City of Danbury v. Freedom of Info. Comm'n, No. HHBCV126017045S, 2013 WL 5289790, at *6 (Conn. Super. Ct. August 23, 2013).

information or record(s) and the statutory basis for withholding such information or record(s). Such affidavit(s) shall be submitted contemporaneously with the records to which they refer, in accordance with paragraph 2 of the order, above.

6. If the respondents fail to comply with any order set forth in paragraphs 1 through 5, above, the complainant may file an appeal with the Commission, and the complainant may request that such appeal be afforded expedited treatment.

7. Henceforth, the respondents shall strictly comply with the disclosure requirements of §§1-210(a), 1-211(a), and 1-212(a), G.S.”

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



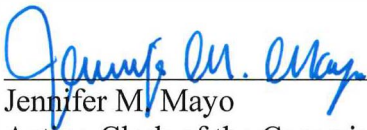
Jennifer M. Mayo
Acting Clerk of the Commission

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:

CHRISTOPHER REH, Dutcher Hall South One, Whiting Forensic Hospital, 70 O'Brien Drive, Middletown, CT 06457

NANCY NAVARRETTA, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES; AND STATE OF CONNECTICUT, DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES, c/o Attorney Noelle G. Miano, Department of Mental Health and Addiction Services, 410 Capitol Avenue, PO Box 341431, Hartford, CT 06134


Jennifer M. Mayo
Acting Clerk of the Commission