

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Winston Davis,

Complainant

against

Docket # FIC 2025-0384

Secretary of the State, State of Connecticut,
Office of the Secretary of the State; and
State of Connecticut, Office of the Secretary
of the State,

Respondents

May 13, 2026

The above-captioned matter was heard as a contested case on November 17, 2025, at which time the complainant and the respondents appeared; stipulated to certain facts; and presented testimony, exhibits, and argument on the complaint. Before the close of such hearing, the respondents requested that a continued hearing be scheduled so that one of their key witnesses, who was absent due to illness, could appear to testify. The undersigned hearing officer granted such motion on the record.

On November 21, 2025, the complainant submitted an objection to the continuance of the hearing in this matter, which the undersigned hearing officer overruled. The continued hearing was subsequently held on January 30, 2026, at which time the respondents appeared and presented testimony, exhibits, and argument on the complaint; but the complainant did not appear.

On February 4, 2026, the hearing officer in this matter ordered the respondents to submit an affidavit. Such affidavit, submitted by the respondents on February 11, 2026, is admitted into evidence as a full exhibit and marked as follows: Respondents' Exhibit 14 (after-filed): "February 11, 2026, Affidavit of Maura Arnold."

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 email on May 2, 2025, the complainant requested from the respondents copies of the following records:
 - (a) the complainant's complete attendance records, including all leave requests; balances; call-out logs; disciplinary documentation; approvals; denials; and communications related to sick, personal, vacation, FMLA, and unpaid leave;

- (b) all documentation and correspondence (emails, letters, memos, notes) referring to the complainant's FMLA leave status, including communications related to exhaustion of leave, denials, reinstatement, or eligibility status;
- (c) all internal communications referring to the complainant, whether by name, employee ID, or any identifiable reference, from or to the following individuals: Emily Kennedy, Michelle Provost, Michael Carragher, Gabe Rosenberg, Cara O'Sullivan, Danielle McMullen, Garry White, Rachel Moser, Blanche Tucker, Nichole Brown, Sophia Bonilla, Brandie Williams, and Chris Drake;
- (d) all records or communications related to any threat assessments, behavioral risk evaluations, or workplace safety/security reviews involving the complainant, including any documents produced or requested by HR [Human Resources], management, the Department of Administrative Services, Capitol Police, Connecticut State Police, or any private or contracted security entities;
- (e) all communications, memos, or reports referring to surveillance, monitoring, or "proactive policing" action involving the complainant, whether in the workplace or externally, including the use of cameras; staff observations; reporting logs; or coordination with law enforcement or security officials;
- (f) any internal reports, logs, or HR notes that reflect concern, suspicion, or evaluations about the complainant's presence, conduct, or behavior at the workplace, regardless of whether formal discipline occurred; and
- (g) all records and internal communications related to the complainant's prior request for access to security camera footage, including all decisions made to grant, deny, delay, or restrict that request, and any discussion about the complainant's access rights.

3. It is found that, by email on May 5, 2025, the respondents acknowledged the complainant's request, described in paragraph 2, above.

4. By email, received and filed on May 22, 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 his request, described in paragraph 2, above. The

complainant further alleged that he believed that the respondents' alleged noncompliance was retaliatory and "connected to internal administrative actions currently being taken against me."¹

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

"[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.

6. Section 1-210(a), G.S., provides the following 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 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 are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. On July 5, 2025, the complainant filed a "supplemental statement" to his May 22, 2025, complaint, received and filed by the Commission on July 10, 2025. In such supplemental statement, the complainant alleged for the first time that the respondents had shredded sixteen (16) boxes of physical records that he believed included "evidence directly responsive to [his] request."²

¹ The Commission notes that the complainant also submitted a request to the respondents on July 1, 2025. Given that such request was made after the complainant filed his May 22, 2025, complaint in the instant matter, it is outside the scope of this complaint, and the Commission will not address it further herein.

² The Commission notes that the complainant further alleged in his supplemental statement that, because the Commission did not issue a preservation notice to the respondents for the records at issue in this complaint or docket his May 22, 2025, complaint as of July 5, 2025, the Commission was likely part of "a willful and coordinated effort [with the respondents] to destroy evidence and obstruct my access to public records." Additionally, he alleged that that "the Commission's inaction and extended delays are enabling [... SOTS's] efforts to conceal violations of my civil rights [...]. The pattern of conduct suggests collusion under color of law in violation of 42 U.S.C. §1983."

First Contested Case Hearing – November 17, 2025

10. At the first contested case hearing in this matter, the complainant represented that the respondents had provided him with approximately 20,000 records around 6 p.m. on the prior day. He further represented that, prior to that disclosure, the respondents had provided him with his pre-May 27, 2025 attendance records in response to his request described in paragraph 2(a), above, as well as an email in response to his request described in paragraph 2(g), above, that contained instructions from the respondents to contact a different public agency.

11. The complainant also represented that the respondents had not provided him with any records responsive to his requests described in paragraphs 2(b), 2(c), 2(d), 2(e), 2(f), and 2(g), above, but that he had not had an opportunity to review the 20,000 records they provided to him the prior day, as described in paragraph 10, above.

12. The complainant also alleged at the hearing, as he previously contended in his supplemental statement, described in paragraph 9, above, that the respondents had destroyed between 40,000 and 48,000 pages of records responsive to his request, described in paragraph 2, above.

13. It is found that, on July 8, 2025, the complainant had filed a complaint with the Office of the Public Records Administrator (“OPRA”) containing an allegation against the respondents similar to those described in paragraphs 9 and 12, above. Specifically, it is found that the complainant alleged in his complaint to OPRA that the respondents had approved sixteen (16) boxes of records for destruction that were scheduled to be picked up on June 17, 2025 by an outside vendor. It is further found that the complainant represented to OPRA that the respondents had failed to provide him with an inventory of the contents of such boxes or with any assurance that such boxes did not contain records responsive to his pending May 2, 2025, records request, described in paragraph 2, above.

14. It is found that, by email on November 14, 2025, in the midst of its investigation of the complainant’s allegations, described in paragraph 13, above, OPRA informed the complainant that it was able to determine the following thus far:

OPRA approved the disposal of the 16 boxes of records that were destroyed on 6/17. SOTS [Secretary of the State] followed OPRA policies to request destruction of records, and documented the records that were destroyed. However, none of these records relate to the personnel or CHRO records you requested in May or July.
[....]

We do not require any documentation post-destruction, and only require an RC-108 records disposition authorization prior to destruction. We have obtained copies of the completed RC-108 and box list from SOTS, which we have attached. [...]

15. It is further found that, in a subsequent email later in the day on November 14, 2025, OPRA informed the complainant of the following:

To clarify, the records destroyed on 6/17/2025 are unrelated to the records you requested in May. It is not illegal for an agency to destroy records that are not related to an FOI request.

Please see attached listing of the destroyed records (page 3). You requested HR, FMLA, and grievance records, none of which are listed as the types of records destroyed.³ Additionally, your request was for records as early as January 1, 2023 through the present. The date range on the destroyed records are from 1/1/2013-11/30/2019. Therefore, none of your requested records could have been included in the records destroyed on 6/17/2025.

Do you have correspondence with SOTS stating that they did not have your requested records because they were destroyed?

(Emphasis in original.)

16. It is found that, by email later in the day on November 14, 2025, the complainant challenged OPRA's interpretation of the law, described in paragraph 15, above, informing the agency that he would proceed with his appeal with the Commission and stating the following:

The central, undisputed fact remains: **The Secretary of the State destroyed 16 boxes of records on June 17, 2025, while my FOIA request – filed in May 2025 – was still active.**

Whether those boxes ultimately contained responsive records is not the threshold question. FOIA requires a **good-faith search** before destruction, and records must be retained until the request (and any appeal) is fully resolved. Destroying records during the pendency of an active request raises serious legal questions relating to FOIA compliance and potential spoliation.

(Emphasis in original.)

17. At the November 17, 2025, hearing, the complainant requested that the Commission consider imposing on the respondents the maximum amount of civil penalties permitted under the FOI Act, as well as “refer [this] matter to the state’s attorney for criminal prosecution on the section of 1-240 and section 1-241[, G.S.].”

³ The Commission notes that the complainant did not proffer such list as an exhibit for the Commission to consider as evidence.

18. The respondents appeared at the first hearing with two witnesses. Based upon the testimony of the respondents' first witness, their human resources ("HR") director, it is found that the respondents performed a diligent and thorough search of the records maintained by the HR department. It is found that, after searching her department's computer systems, the witness found twenty-nine (29) double-sided pages of attendance records, as well as a 62-page employee handbook, that were responsive to portions of the complainant's request described in paragraph 2(a), above. It is found that, on May 23, 2025, the witness provided such records to the complainant, twenty-one (21) days after the respondents received the complainant's request.⁴

19. It is further found that the respondents' HR director also searched for records responsive to the requests described in paragraphs 2(e) and 2(f), above, among hard copy files maintained by the HR department, including the files and notes of several past HR directors, but did not find any responsive records.

20. Based on the testimony of the respondents' second witness, their chief of staff/general counsel, it is found that he conducted a search for records responsive to the request described in paragraph 2(d), above. It is found that, specifically, he searched the records that he maintained for any threat assessments, behavioral risk evaluations, or workplace safety/security reviews involving the complainant, but he did not find any responsive records.

21. It is found that both the respondents' HR director and their chief of staff/general counsel did not conduct a search of their own emails in response to the requests described in paragraph 2, above, because the respondents chose to engage the Department of Administrative Services ("DAS") to perform that search of their emails on their behalf.

22. The complainant further alleged that neither of the witnesses who testified on behalf of the respondents at the November 17, 2025, hearing performed a complete search for responsive records because they did not locate any responsive records regarding a theft of computers that he had purportedly reported to the respondents. It is found, however, as described in paragraphs 10 and 11, above, that the complainant did not have an opportunity to review the records provided to him by the respondents on the evening prior to the first contested case hearing.

Second Contested Case Hearing – January 30, 2026

23. It is found that, at the continued contested case hearing in this matter, the complainant failed to appear. The respondents appeared, however, with two additional witnesses.

⁴ The Commission notes that, when the complainant acknowledged the respondents' May 23, 2025, disclosure on May 27, 2025, he expanded his original request, described in paragraph 2(a), above, to include a request for an audit or log of individuals who may have adjusted his attendance records. Given that such request was made after the complainant filed his complaint in the instant matter, it is outside the scope of this complaint, and the Commission will not address it further herein.

24. Based upon the testimony of the respondents' third witness, their information technology ("IT") specialist, it is found that, on May 30, 2025, the respondents requested that DAS's Bureau of Information Technology Solutions ("BITS") search the respondents' emails, Microsoft Teams messages, and calendar events for any records responsive to the complainant's request, described in paragraph 2, above.

25. Based upon the testimony of the respondents' IT specialist, it is found that BITS performed an initial search that yielded 15,854 responsive records. It is further found that BITS did not immediately disclose such records to the respondents, due to their determination that some search terms should be modified.

26. It is found that BITS then performed a second search that yielded 18,854 responsive records. It is further found that such records were provided to the respondents' IT specialist, who then provided them to the respondents' counsel for review on June 23, 2025.

27. It is found that the respondents' fourth witness, their records and legislative services coordinator ("records coordinator") is responsible for signing off on the respondents' requests to OPRA for permission to destroy records.

28. Based upon the testimony of the respondents' records coordinator, it is found that the respondents' records and archives librarian ("librarian") made a list of boxes containing records to be destroyed by an outside vendor. It is found that the librarian requested the vendor's services.

29. It is found that the respondents' librarian assembled the contents of the boxes of records slated for destruction.

30. It is found that the respondents' librarian compiled a list of the boxes' contents for the respondents' records coordinator to sign off on. It is found that the respondent's records coordinator signed off on such list. It is further found that the respondents' record coordinator did not double-check the contents of such boxes but rather relied on the librarian's list, as is her practice.

31. Based on the credible testimony of the respondents' records coordinator, it is found that the list of the boxes' contents reflected the following categories of records:

- (a) payroll documents that could include hourly salary, IRS and W2 information, and reports regarding employees, from April 28, 2016, through July 19, 2018; and January 1, 2013 through June 22, 2017;

- (b) notices to corporations of administrative dissolution returned to the respondents as undeliverable, from April 18, 2019, through October 25, 2019;
- (c) logs of notices to corporations of administrative dissolution, from January 22, 2019, through October 25, 2019; and April 18, 2019 through October 25, 2019;
- (d) corrections to the Uniform Commercial Code (“UCC”) index system, from August 20, 2020, through December 31, 2020; April 1, 2020, through November 30, 2020; and February 2, 2016 through August 31, 2017;
- (e) sign-in sheets and time-off requests for employees in the respondents’ business services division, from May 1, 2020 through December 31, 2020; and September 1, 2020 through December 31, 2020;
- (f) corrections to UCC and corporations index systems, from January 1, 2008, through December 31, 2013; September 1, 2019, through November 30, 2019; and January 1, 2018, through September 1, 2019;
- (g) staff requests for corrections to business documents, from October 1, 2018, through October 16, 2019; January 1, 2020, through December 31, 2021; October 1, 2017, through September 30, 2018; and December 1, 2016, through October 31, 2017; and
- (h) notices sent to corporations and business entities reminding them to submit an annual report, including notices returned as undeliverable, from January 1, 2013, through December 31, 2013.

32. It is found that, by email on June 12, 2025, the respondents’ librarian arranged for two of the respondents’ staff members to be present on June 17, 2025, when the vendor was scheduled to pick up the boxes to be destroyed off-site. It is found that the complainant was one of such employees whom the librarian requested to be present.

33. It is found that, on June 17, 2025, the complainant himself signed off on the vendor’s pickup of such boxes.

34. It is found that, with the exception of the personnel documents described in paragraph 2(a), above, all documents destroyed by the respondents as described in paragraph 31, above, fall outside the calendar date parameters posed by the complainant in his requests described in paragraph 2, above.

35. It is found that only the complainant's request for personnel records described in 2(a), above, partially overlapped with the dates of the destroyed personnel records described in paragraphs 31(a) and 31(e), above.

36. However, based upon the credible testimony of the respondents' records coordinator, it is found that the respondents had maintained payroll records in hard copy form only through 2013, and, by the time of the complainant's hire in 2017, the respondents had instituted a computerized system for payroll records known as CORE CT.

37. Therefore, it is found that, even if the respondents had destroyed hard copies of records responsive to the complainant's request described in paragraph 2(a), above, such records would still have remained in the respondents' electronic CORE CT computer system and would have been retrievable.

38. Before the close of the January 30, 2026, hearing in this matter, the respondents' counsel represented that the respondents had not yet finished disclosing all responsive records to the complainant. She further represented that the records were still being disclosed in batches on a rolling basis as of the date of such hearing.

39. Accordingly, on February 4, 2026, the undersigned hearing officer ordered the respondents to submit an affidavit attesting to the (a) number of pages of responsive records already provided to the complainant and the dates on which they were provided and (b) nature and volume of outstanding responsive records that remained to be provided, along with the reasons for their outstanding status.

40. It is found that, on February 11, 2026, the respondents' counsel submitted an affidavit in compliance with the undersigned hearing officer's order, described in paragraph 39, above. Based upon such affidavit, it is found that the respondents had provided the complainant with approximately 2,192 pages of purportedly responsive records to date at the following intervals: (a) 125 pages on or about May 23, 2025; (b) 404 pages on or about November 20, 2025, via a OneDrive link; and (c) 1,788 pages on or about February 11, 2026, via a OneDrive link.

41. It is further found that, as of February 11, 2026, the respondents possessed approximately 1,049 pages of purportedly responsive records that they had not yet released to the complainant. It is found that, as of that date, the respondents were still reviewing such pages for responsiveness and any legal exemptions to disclosure.

42. Respondents' counsel also represented in her February 11, 2026, affidavit that, after review, many documents found during the respondents' search were "returned" because they did not "reference the complainant by name, employee ID or identifiable reference" and, therefore, in the respondents' estimation, did not meet the criteria laid out by the complainant in his request, described in paragraph 2, above.

Destruction of Responsive Records

43. Regarding the complainant's allegation that the respondents destroyed 16 boxes of records responsive to his request described in paragraph 2, above, and his request that the Commission impose penalties upon the respondents pursuant to §1-240, G.S.,⁵ such statute provides the following, in relevant part:

(a) Any person who wilfully, knowingly and with intent to do so, destroys, mutilates or otherwise disposes of any public record without the approval required under section 1-18 or unless pursuant to chapter 47 or 87I, or who alters any public record, shall be guilty of a class A misdemeanor and each such occurrence shall constitute a separate offense.

44. Section 1-18, G.S., provides as follows:

The original records, papers or documents reproduced pursuant to this chapter may be disposed of in such manner as approved by (1) the head of the political subdivision in charge thereof, and (2) the Public Records Administrator. All other original records, papers or documents so reproduced may be disposed of at the option of the keeper thereof.

45. Given the above-described findings in paragraphs 14-15 and 27-37, it is concluded that the respondents' employees complied with the requirements of §1-18, G.S., when submitting the 16 boxes of records described in paragraph 31, above, for off-site destruction by a vendor.

46. Therefore, it is concluded that the actions of the respondents' records coordinator and the respondents' librarian, described in paragraphs 27-37, above, did not constitute "wilfully, knowingly and with intent to do so, destroy[ing]... any public record without the approval required under section 1-18," within the meaning of §1-240(a), G.S.

⁵ The Commission notes that the complainant also requested that the respondents be penalized pursuant to §1-241, G.S., which permits public agencies to seek injunctive relief from frivolous, unreasonable, or harassing FOI appeals brought by complainants. Given that the complainant is not the proper party to seek a remedy under such statute, the Commission will not address that request further herein.

47. Accordingly, the Commission, in its discretion, declines to refer this matter to the Office of the Chief State's Attorney for prosecution under §1-240(a), G.S.

Thoroughness of Search for Responsive Records

48. Regarding the complainant's allegation that the respondents' search for responsive records was incomplete and insufficient, it is found that the respondents' HR director, chief of staff/general counsel, and IT specialist performed a diligent and thorough search for records responsive to the request at issue, as described in paragraphs 18-21 and 24-26, above.

49. It is found that the complainant's failure to appear at the January 30, 2026, continued hearing in this matter and provide testimony as to his satisfaction with the records provided to him by the respondents as of that date was obstructionist and tantamount to a failure to prosecute his complaint.

50. It is found that the complainant's allegation, described in paragraph 22, above, that the respondents did not provide him with records regarding his report of allegedly stolen computers, was premature and unfounded, given that the complainant had testified on that date that he had not reviewed the totality of the records provided to him.

51. It is further found that, although the respondents admitted in their counsel's affidavit, described in paragraph 41, above, that they had not yet finished disclosing all responsive records to the complainant as of February 11, 2026, it was reasonable that their review of such records was incomplete, given the large volume of records at issue.

52. Accordingly, it is concluded that the respondents did not violate the search and disclosure provisions of §§1-210(a) and 1-212(a), G.S.

Civil Penalties

53. Given the conclusions that the respondents did not violate the FOI Act, as described in paragraphs 45, 46, and 52, above, the Commission further concludes that the consideration of civil penalties is not warranted in this matter.

54. The Commission encourages the respondents to continue to work diligently to provide the complainant with the remaining 1,049 responsive records.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 13, 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:

WINSTON DAVIS, 19 Salisbury Street, Hartford, CT 06112

SECRETARY OF STATE, STATE OF CONNECTICUT, OFFICE OF THE SECRETARY OF THE STATE; AND STATE OF CONNECTICUT, OFFICE OF THE SECRETARY OF THE STATE, c/o Attorney Maura Arnold, Office of the Secretary of the State, 165 Capitol Ave, Hartford, CT 06106


Jennifer M. Mayo
Acting Clerk of the Commission