

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Ian Cooke,

Complainant

against

Docket #FIC 2019-0310

Commissioner, State of Connecticut,  
Department of Correction; and State of  
Connecticut, Department of Correction,

Respondents

October 23, 2019

The above-captioned matter was heard as a contested case on August 7, 2019, 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, Superior Court, Judicial District of Hartford, Corrected order dated January 27, 2004 (Sheldon, J.).

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 in a request dated April 26, 2019, the complainant requested to, “review and copy all Inmate’s Legal Aid Program (ILAP) monthly reports issued for Garner from June 1, 2012 to present.” The complainant further states in his request that, “if facility specific reports for Garner are available I am interested in those, otherwise I would like access to the general reports.”
3. By letter of complaint filed May 29, 2019, the complainant appealed to the Commission, alleging that the respondents denied him access to certain records in violation of the Freedom of Information (“FOI”) Act.
4. It is found that, on July 9, 2019, the respondents acknowledged the complainant’s request. Additionally, it is found that the respondents only learned of the request when they

received notice of the complainant's appeal to this Commission.<sup>1</sup>

5. Section 1-200(5), G.S., defines "public records or files" as:

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, 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 (1) inspect such records promptly during regular office or business hours, ... Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place....

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

8. It is found that the respondents' regular office and place of business, as referenced in §1-210(a), G.S., is located at 24 Wolcott Hill Road, Wethersfield, CT, and any public records maintained or kept on file by the respondents are made available for inspection at this location.

9. It is found that the respondents identified 2,922 pages of records responsive to the complainant's request. Further, it is found that the respondents interpreted the complainant's request to "review and copy" as a request to inspect the requested records. At the hearing on this matter, the complainant confirmed his desire to inspect the requested records prior to incurring the expense of copies.

10. It is found that the respondent denied the complainant's request to inspect the requested records and instead informed the complainant that copies of the requested records would be forwarded to him upon payment of \$730.50.

11. It is found that in an effort to reduce the cost to the complainant, the respondents reviewed the responsive records and were able to reduce the number of records to a total of 500 pages, thus reducing the cost from \$730.50 to \$125.00. Additionally, the respondents further offered to provide the complainant with reports that pertained to just the Garner

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<sup>1</sup> The Commission again notes that a modification of the respondents' FOI request process may be in order due to the number of occasions that the respondents do not receive requests from incarcerated persons. Docket #FIC 2018-0597; Ira Alston v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction (July 10, 2019).

Correctional Institution. Such records included a total of 311 pages and would cost \$77.75. According to the respondents, the set of records pertaining to just Garner, covered the time period of 2015 through 2019 and reports prior to 2015 were not broken down by facility.

12. At the hearing on this matter and in their post-hearing brief, the respondents argued that while they make records available for public inspection at their regular office, they have no duty to bring records to the complainant's location for inspection. The respondents site the Commission's decision in Norman Gaines v. Records Liaison, State of Connecticut, University of Connecticut Health Center, Correctional Managed Health Care, et al., Docket #FIC 2017-0369 (March 28, 2018).

13. In Gaines, the complainant, who was also incarcerated, sought to inspect records maintained by the respondents. However, the Commission determined that nothing in the Act requires an agency to produce records at the location of the requester. Further, the Commission determined that an individual's inability to appear at the office of the public agency during regular office or business hours does not create a duty on the part of the public agency to bring the records to that individual so that he can exercise his right to inspect them.

14. It is found that, due to his incarceration, the complainant was, at all relevant times, unable to appear at the regular offices of the respondent during regular business hours to exercise his right to inspect records, as such right has been interpreted by this Commission in Gaines.

15. In Noah Snyder v. Rollin Cook, Commissioner, State of Connecticut Department of Correction, et al., Docket #FIC 2019-0231 (September 11, 2019), the Commission cited Gaines when it again determined that the Act does not require respondents to produce records at the location of the requester.

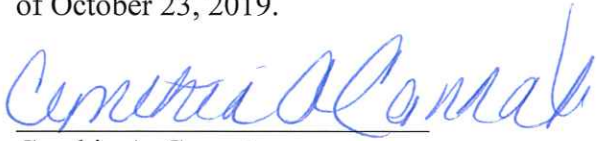
16. In his post-hearing brief, the complainant argues that inmates have a right of inspection under the FOI Act; that the respondents have no formal policy or procedure based on their interpretation of Gaines; that the respondents' practices are inconsistently and arbitrarily applied on a case-by-case basis; and that the respondents transfer records to accommodate members of the public other than inmates. However, the complainant failed to provide any legal argument that would convince the Commission to deviate from its decision in Gaines.

17. Accordingly, it is therefore concluded that the respondents did not violate the FOI Act when they declined to transfer records from their regular offices to the complainant's location in order to allow the complainant to inspect the requested records prior to receiving copies.

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 October 23, 2019.



Cynthia A. Cannata  
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:

**IAN COOKE, #340812**, Garner Correctional Institution, 50 Nunnawauk Road, Newtown, CT 06470

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Jennifer Lepore, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission