

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Dale Kukucka,

Complainant

against

Docket #FIC 2019-0611

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

Respondents

August 26, 2020

The above-captioned matter was heard as a contested case on January 23, 2020, at which time the complainant and the respondents appeared 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, J.D. of Hartford at 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 February, 2019, the complainant requested emails and photographs pertaining to his criminal case from the Department of Emergency Services and Public Protection (DESPP). In March, 2019, the complainant filed a complaint with this Commission, alleging that DESPP violated the FOI Act by failing to provide the requested records. That complaint was docketed as FIC 2019-0132. In Docket #FIC 2019-0132, the Commission found that DESPP had provided all responsive records to the respondent Department of Correction's (DOC) Freedom of Information (FOI) Administrator, and therefore concluded that DESPP had not violated the FOI Act as alleged in the complaint.
3. It is found that DESPP sent the responsive records to the FOI Administrator on May 8, 2019, and that the FOI Administrator reviewed those records for possible safety and security risks, pursuant to §§1-210(c) and 1-210(b)(18), G.S.¹ It found that the FOI Administrator

¹ The process of providing records to an inmate is governed by §1-210(c), G.S., and the policy implementing that statute (policy available on the Commission's website). Section 1-210(c), G.S., provides that "[w]henver a public

redacted the first name of one DOC employee that appeared several times in the records. It is found that on May 14, 2019, the FOI Administrator forwarded all of the records sent by DESPP to the facility in which the complainant was confined. It is found that on May 21, 2019, a counselor at that facility delivered those records to the complainant in his cell. The complainant acknowledged receipt of the records, but noted on the written receipt his belief that some responsive records had not been provided to him.

4. It is found that, on September 27, 2019, the complainant filed a “grievance” with the respondents, alleging that they had not provided all requested records that DESPP had sent to the respondent department’s FOI Administrator.

5. By letter, received and filed with the Commission on October 3, 2019, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by withholding the records provided by DESPP pursuant to his February, 2019 request.²

6. The FOI Administrator testified at the hearing in this matter, and it is found, that all records provided by DESPP to the DOC were provided to the complainant, and that no records were withheld. The complainant did not contest the redaction of the first name of the DOC employee.

7. At the hearing in this matter, the complainant took issue with the fact that none of the requested photographs were provided to him. It is found, however, that DESPP did not provide any photographs to the FOI Administrator. In Docket #FIC 2019-0132, the Commission found that, with the complainant’s consent, DESPP had forwarded the photographs to the complainant’s attorney.

8. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

agency receives a request from any person confined in a correctional institution...for disclosure of any public record under the Freedom of Information [(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 Information 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....” The policy implementing §1-210(c), G.S., provides that the documents requested by the [inmate] should be delivered to the Department of Correction’s FOI Administrator, who should conduct a review to determine whether such documents or portions thereof are exempt from disclosure pursuant to §1-210(b)(18), G.S. Documents, or portions thereof, deemed to be exempt from disclosure may be withheld by the Administrator; documents deemed to be non-exempt should be delivered promptly to the inmate. If the Administrator withholds any documents, the Administrator must promptly notify the inmate in writing and provide the reason for such withholding. An inmate who believes any documents have been improperly withheld by the Administrator may appeal to the FOI Commission.

² In Docket #FIC 2019-0132, the Commission determined that the records at issue are “public records” under §§1-210(a) and 1-212(a), G.S.

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 26, 2020.



Cynthia A. Cannata

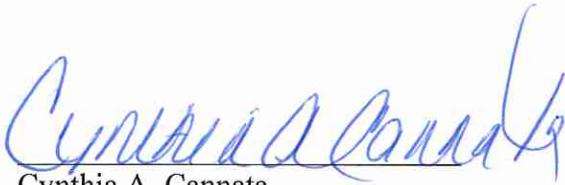
Acting Clerk of the Commission

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:

DALE KUKUCKA, #400170, MacDougall/Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Tracie C. Brown, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission