

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Dale Kukucka,

Complainant

against

Docket #FIC 2019-0672

James Rovella, Commissioner,
State of Connecticut, Department of
Emergency Services and
Public Protection; and State of Connecticut,
Department of Emergency Services and
Public Protection,

Respondents

December 9, 2020

The above-captioned matter was heard as a contested case on February 27, 2020, 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 et al*, 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. By letter of complaint filed November 7, 2019¹, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for certain public records.

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains jurisdiction over this matter.

3. It is found that the complainant made an October 23, 2019 request to the respondents for:

... the following responsive documents in reference to CR-13-202240, *State v. Kukucka, Dale H.*

A. All policies and guidelines promulgated by DESPP and CTSP regarding all audio and video recording devices, specifically dash cam equipment and reverse passenger/prisoner camera devices in all vehicles;

B. The name, make, model of all dash cam and reverse camera devices utilized by the following officers on 10/19 - 10/20, 2013: officers #642, 888, 902, 307, 569, 858, 245, 1341, 552, 140;

C. Issued property form for each officer *supra* [paragraph] B on police vehicles for year 2013 in effect for date of 10/19-20, 2013;

D. Dash cam audio and video on or about 11:30 p.m. on 10/19/13 to 8:00 a.m. on 10/20/13 for the following officers' vehicles: (1) Phillip Soucy #642; (2) Paul Arigno #888; (3) James Olson #902; (4) Sean Velazquez #370; Sean Mahar #569; (6) Chris Burns #858; (7) Tim Begley #245; (8) Karen Gabinelli #150; (9) Tpr. Dunning #552; (10) Tpr. Fowler #1341;

E. All radio audio communications between dispatch and/or officer to officer communications from date *supra* and officers *supra* [paragraph] D.

4. It is found that the respondents, by letter dated February 11, 2020, replied as follows:

Request A: Document enclosed.

Request B: No documents pursuant to your request, past retention period.

Request C: No document pursuant to your request, past retention period.

Request D: Search of our records has been completed and the requested videos have not been located as the retention period is only ninety (90) days for video recordings and there is no indication that any recordings were seized as evidence.

Request E: Enclosed is a copy of the CAD (Computed aided Dispatch) remarks pertaining to the above-referenced matter, the CAD remarks have been redacted pursuant to 28 USC §534/CGS §29-164f (NCIC/Collect), CGS §1-210 (b)(3)(E) (investigatory techniques not otherwise known) and CGS §1-210(b)(3)(G) (victim of sexual assault). A

search of our records has been completed and the requested audio has not been located as the retention period is only one (1) year for audio recordings and there is no indication that any recordings were seized as evidence.

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

“Public 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, printed, photostated, photographed or recorded by any other method.

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

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (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 documents are public records within the meaning of §§1-200(5), 1-210(a), and 1-210(a), G.S.

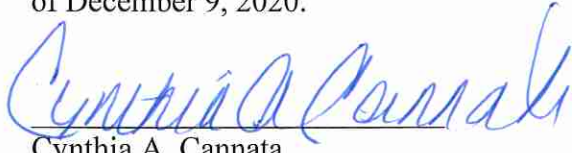
9. It is found that the respondents conducted a diligent search for responsive records, and have no further records beyond those provided to the complainant.

10. It is concluded that the respondents did not violate the FOI Act as alleged.

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 December 9, 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

JAMES ROVELLA, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney Jay DonFrancisco, Dept. of Emergency Services and Public Protection, 1111 Country Club Road, Middletown, CT 06457



Cynthia A. Cannata
Acting Clerk of the Commission