

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jean Conquistador,

Complainant

against

Docket #FIC 2019-0311

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

Respondents

February 13, 2020

The above-captioned matter was heard as a contested case on August 13, 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 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 May 29, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for public records.
3. It is found that the complainant made a May 14, 2019 request for certain records pertaining to a February 5, 2019 incident involving him and a correctional officer.
4. It is found that the complainant had made the same records request on March 10, 2019. That earlier request had been acknowledged by the respondents on March 13, 2019, and the respondents had compiled the records by June 26, 2019.

5. It is found that the respondents offered the records to the complainant on June 28, 2019, contingent upon the complainant paying for the copies.

6. It is found that, when the respondents offered the records on June 28, they did not permit the complainant to briefly inspect the records before paying for them, and the complainant therefore declined to receive the records because he was not permitted to ascertain that he was receiving what he was paying for.

7. It is found that the respondents then met with the complainant again on August 12, 2019. The parties dispute exactly what happened at that meeting.

8. 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.

9. 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 ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

10. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

11. It is concluded that the requested records are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

12. It is found that when the respondents met with the complainant on August 12, 2019, they had reconsidered their earlier position and decided, based upon internal discussions, to give the complainant an opportunity to inspect the records before paying for them.

13. However, it is also found that, at the time of the August 12, 2019 meeting, a second correctional officer was present, and that the complainant objected to that

officer's presence. The complainant consequently asked both correctional officers to leave, which they did without offering the records to the complainant.

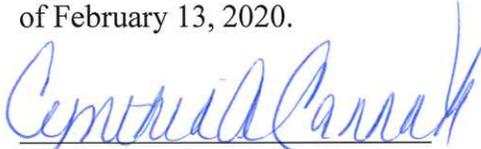
14. It is found that, because they were asked to leave, the subject of offering the complainant an opportunity to inspect the records before receiving them did not then arise.

15. Although the respondents made a good faith effort to comply with the FOI Act on August 12, 2019, it is nonetheless concluded that the respondents violated the Act by unnecessarily delaying the prompt provision of records to the complainant from June 28 to August 12, 2019.

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

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

Approved by Order of the Freedom of Information Commission at its regular meeting of February 13, 2020.



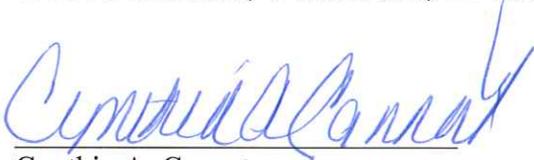
Cynthia A. Cannata
Acting Clerk of the Commission

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:

JEAN CONQUISTADOR, #341088, Hartford Correctional Center, 177 Weston Street, Hartford, CT 06102

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