

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Michael Braham,

Complainant

against

Docket #FIC 2019-0140

Chairperson, State of Connecticut,
Board of Pardons and Paroles; and
State of Connecticut, Board of
Pardons and Paroles,

Respondents

January 22, 2020

The above-captioned matter was heard as a contested case on October 22, 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, 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 March 8, 2019, 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.
3. It is found that the complainant made a February 11, 2019 request to the respondents for, among other records no longer at issue, a “[l]ist of current offenders whose sentences have been commuted since 1998.”
4. It is found that the respondents, while complying with other portions of the complainant’s request, denied the request described in paragraph 3, above, on the grounds that it would necessitate research that is not required by the FOI Act.
5. Section 1-200(5), G.S., provides in relevant part:

“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 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, (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: “Any person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record.”

8. It is found that the complainant specifically requested a “list.”

9. It is found that the respondents do not maintain a list that is responsive to the complainant’s request.

10. It is well-established that public agencies are not required to create lists under the FOI Act. See, for example, Docket No. FIC 87-15, Vincenzo v. Board of Parole et al. (Board of Parole not required to create a list of persons who appeared before the board and identify, from such list, those persons still in custody of the Department of Correction.)

11. It is also well-established that public agencies are not required to conduct research under the FOI Act. See, for example, Wildin v. FOIC, 56 Conn. App. 683 (2000).

12. It is found that, even if the respondents were required to compile the list requested by the complainant, to do so would require the exercise of analysis, interpretation and judgment that are the hallmarks of research. For example, just to begin the compilation of such a list would require interpretation of incomplete written records by one of the respondent Board’s predecessor agencies (the Board of Pardons), and consultation with the Board’s since-retired attorney.

13. It is therefore concluded that the respondents did not violate the FOI Act by declining to conduct research in order to create a list for the complainant.

The following order 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 January 22, 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:

ICHAEL BRAHAM, #231451, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

CHAIRPERSON, STATE OF CONNECTICUT, BOARD OF PARDONS AND PAROLES; AND STATE OF CONNECTICUT, BOARD OF PARDONS AND PAROLES, c/o Attorney Leland J. Moore, Board of Pardons and Paroles, 55 West Main Street, Suite 520, Waterbury, CT 06702

Cynthia A. Cannata
Acting Clerk of the Commission