

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Dale Kukucka,

Complainant

against

Docket # FIC 2019-0378

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

Respondents

July 8, 2020

The above-captioned matter was heard as a contested case on January 16, 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 July 24, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by not complying with two final Commission decisions issued on January 23, 2019.
3. The Commission takes administrative notice of the final decisions issued in Docket #FIC2018-0242, Dale Kukucka v. Dora Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; and Docket #FIC2018-0243, Dale Kukucka v. Dora Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection.

4. Section 1-206(b)(2) states in relevant part:

In any appeal to the Freedom of Information Commission...the commission may...order the agency to provide relief that the commission, in its discretion, believes appropriate to rectify the denial of any right conferred by the Freedom of Information Act.

5. The final decision in Docket #FIC 2018-0242 ordered:

- a. Forthwith the respondents shall determine whether their Research and Planning Unit maintains the records of cellphone tracking policies in effect in 2013. If any such records exist, copies of all responsive records shall be provided to the complainant, free of charge. If no additional records are discovered, the respondents forthwith shall send a letter to the complainant informing him of that fact.

6. The final decision in Docket #FIC 2018-0243 ordered in relevant part:

- a. Forthwith, the respondents shall provide to the complainant, free of charge, copies of the forms DPS 213-C and DPS 214-C, if they have not already done so.
- b. Forthwith, the respondents shall provide to the complainant, free of charge, copies of the records requested concerning the photo array in paragraphs 2b and 9 of the findings of fact.
- c. Forthwith, the respondents shall determine whether they maintain any of the requested records, as limited by the complainant in paragraph 10 of the findings of fact, concerning forms completed by Detective Velasquez. If any such records exist, copies of all responsive records shall be provided to the complainant, free of charge. If no responsive records are found in a search of 10 of Detective Velasquez's files, the respondents shall inform the complainant of that fact by letter.

7. In the instant case, the complainant alleges that the respondents have failed to comply with the orders as described in paragraphs 5 and 6, above, in that he has not received any of the records ordered disclosed, or a letter indicating such records do not exist.

8. It is found that since the issuance of the final decisions in the matters referenced in paragraphs 5 and 6, above, the respondents had difficulty communicating with the complainant through his assigned habeas attorney. The respondents understood the attorney to be Attorney

Christopher Duby of Hamden, CT. However, the complainant clarified that his attorney is Attorney Robert O'Brien who is associated with the office of Attorney Duby.

9. With regard to compliance with the Commission's order as described in paragraph 5a, above, the respondents contended they have no records responsive to the complainant's request and agreed to send a letter to the complainant attesting to the lack of responsive records. Such letter will be sent to Attorney O'Brien.

10. It is found that the respondents complied with the Commission's order as described in paragraph 6a, above.

11. It is found that the respondents complied with the Commission's order as described in paragraph 6b, above. The parties agreed that such compliance occurred as part of another FOI request.

12. It is found that the respondents do not have records responsive to the complainant's request for DPS forms 213C and 214C prepared by Detective Velasquez and further described in paragraph 6c, above. The respondents agreed to send to the complainant a letter attesting to the lack of such responsive records.

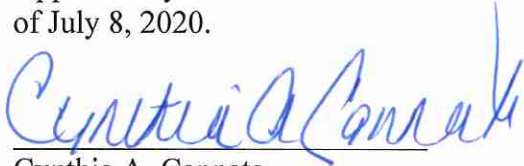
13. It is found that as of the date of the hearing in this matter, the respondents had not yet fully complied with the orders issued by the Commission as referenced in paragraphs 5 and 6 above. However, the respondents demonstrated an earnest effort to comply with the Commission's orders that was hampered by the inability to establish communications with the complainant or his attorney.

14. Accordingly, based upon the facts and circumstances of this case, it is found that the respondents did not violate the FOI Act as alleged by the complainant.

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 July 8, 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 EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, 1111 Country Club Road, Middletown, CT 06457**



Cynthia A. Cannata  
Acting Clerk of the Commission