

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Robert Andrews,

Complainant

against

Docket #FIC 2019-0441

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

Respondents

September 23, 2020

The above-captioned matter was heard as a contested case on January 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 July 24, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his request for certain public records.
3. It is found that the complainant made a request dated June 26, 2019 to the respondents for a disciplinary report concerning himself, and a witness statement made by another inmate.
4. It is found that the respondents provided the complainant with the requested disciplinary report, but denied him a copy of the witness statement.
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: "Any 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 records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. The respondent Department of Correction claims that the withheld witness statement is exempt from disclosure pursuant to §1-210(b)(18), G.S., which provides that disclosure is not required of:

Records, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction... Such records shall include, but are not limited to:

- A. Security manuals, including emergency plans contained or referred to in such security manuals;
- B. Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;
- C. Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;
- D. Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner,

- security procedures, emergency plans or security equipment;
- E. Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;
- F. Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;
- G. Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and
- H. Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers.

10. The respondent contends that the Commissioner of Correction has reasonable grounds to believe that disclosure of witness statements to inmates other than the witness himself creates a risk of harm to the witness, as the statement may be unfavorable to the requesting inmate, who might then have reason to harm the witness.

11. The complainant contends that the statement exonerates him, is therefore not unfavorable to him or anyone else, and therefore should be disclosed.

12. The respondents contend, however, that if they disclosed only favorable witness statements, and denied access to negative statements, a requesting inmate could conclude that a statement that was denied must be unfavorable.

13. It is concluded that the Commissioner of Correction has reasonable grounds to believe that disclosure of witness statements to inmates other than the witness himself creates a risk of harm, and that the requested witness statement is therefore permissibly exempt from disclosure pursuant to §1-210(b)(18), G.S.

14. The complainant further contends that the disciplinary investigative report provided to him is incomplete.

15. It is found, however, that the respondents conducted a diligent search for the requested disciplinary investigative report.

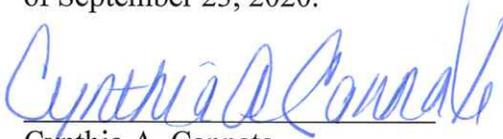
16. It is found that the respondents provided all the non-exempt records responsive to the complainant's request.

17. 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 September 23, 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:

ROBERT ANDREWS, #400305, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

ROLLIN COOK, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Jennifer Lepore, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission