

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Victor Velasco,

Complainant

against

Docket #FIC 2020-0278

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

Respondents

December 15, 2021

The above-captioned matter was scheduled for hearing as a contested case on April 23, 2021, at which time both the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2020-0252; Victor Velasco v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹ The complainant is incarcerated at a facility of the Connecticut Department of Correction.

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. It is found that, by Inmate Request Form dated April 12, 2020, the complainant requested that the respondents provide the following:

[a] copy of video recording for April 9, 2020 of Restrictive Housing Unit (all angles) in front of cell 109 and the medical room located at the rear of the unit which depicts me exiting the cell and heading towards the medical room with nurse Mellissa and CCOs and exiting the medical room and returning back to cell 109.

¹ On March 14, 2020, the Governor issued Executive Order 7B, which suspended the requirement to conduct public meetings in person.

exempt from disclosure pursuant to §1-210(b)(18), G.S. Counselor Supervisor (“CS”) Campanelli, the respondents’ FOI Administrator, testified that the video depicts areas within a correctional facility, including the medical unit. CS Campanelli also testified that the video reveals how restraints are applied, the location of windows, doors and security cameras, the areas covered and not covered by the cameras, the level of staffing in the unit, and the types of locks on the doors. In addition, CS Campanelli testified that the release of the video discloses the correctional facility’s vulnerabilities, and that one of the safety concerns with disclosing the video is the risk of escape.

9. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of:

[r]ecords, 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....

10. The Commission’s role in reviewing the Commissioner’s safety risk determination under §1-210(b)(18), G.S., is to determine “whether the [commissioner’s] reasons were pretextual and not bona fide, or irrational.” Comm’r v. Freedom of Info. Comm’n, 46 Conn. L. Rptr. 533, 2008 WL 4926910, at *5 (Conn. Sup. Ct. Nov. 3, 2008).

11. In addition, the Commission has consistently held that the Commissioner of Correction has reasonable grounds to believe that the disclosure of video recordings of the interior of correctional facilities may result in a safety risk within the meaning of §1-210(b)(18), G.S. See e.g., Robin Elliot v. Warden, State of Connecticut, Department of Correction, et. al., Docket #FIC 2008-733 (July 1, 2009); Brandon Holloway v. State of Connecticut, Department of Correction, et. al., Docket #FIC 2011-066 (January 11, 2012); Ira Alston v. Commissioner, State of Connecticut, Department of Correction, et. al., Docket #2015-882 (September 14, 2016); Charles Fonck, III v. Scott Semple, Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2018-0155 (December 19, 2018); Seth Kerschner v. Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2018-0106 (December 19, 2018); Arron McLaughlin v. Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2018-0311 (January 23, 2019); Victor Velasco v. Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2018-0705 (September 25, 2019); Albert Farah v. Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2020-0287 (July 28, 2021); and Victor Velasco v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction, et. al., Docket #FIC 2020-0294 (September 8, 2021) (each finding that disclosure of video captured within a correctional facility poses a safety risk and that such video is permissibly exempt from disclosure pursuant to §1-210(b)(18), G.S.).

12. At the hearing, the complainant requested that the hearing officer order the respondents to submit the requested video recording for in camera inspection. The Supreme Court has found that “[u]nless the character of the documents in question is conceded by the parties, in camera inspection of the particular documents by the commission may be essential to the proper resolution of a dispute under the act.” See Wilson v. Freedom of Information Commission, 181 Conn. 324, 340 (1980). In the instant matter, in camera review of the video

recording is unnecessary given that there is no dispute that such record depicts the interior of a correctional facility, including the medical unit. The complainant's request for in camera inspection is hereby denied.

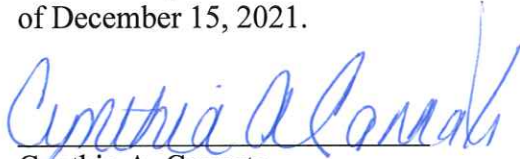
13. Based on the evidence presented at the hearing, it is found that the respondent Commissioner has reasonable grounds to believe that disclosure of the requested video recording may result in a safety risk, including risk of escape, in a correctional facility. It is further found that the reasons given are bona fide, and not pretextual, or irrational.

14. Accordingly, it is concluded that the requested video recording is exempt from disclosure pursuant to §1-210(b)(18), G.S., and that the respondents did not violate the FOI Act as alleged in the complaint.

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 December 15, 2021.



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:

VICTOR VELASCO, #213065, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Tracie C. Brown, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06114



Cynthia A. Cannata
Acting Clerk of the Commission