

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jason Goode,

Complainant

against

Docket # FIC 2020-0095

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

Respondents

January 13, 2021

The above-captioned matter was heard as a contested case on November 4, 2020, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted telephonically.¹

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 February 25, 2020, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for a copy of his disciplinary record for the period of 1/1/2016 to the present. Additionally, the complainant requested that the Commission consider the imposition of a civil penalty against the respondents.

3. It is found that the complainant made a written request for his disciplinary record in January 2020. Although the exact date of the request could not be determined, the parties do not dispute that a request was made. The request was made through the use of an "authorization for release on non-health information" form (#CN 4402), made available to the complainant by the respondents.

4. 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,

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

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.

5. 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.

6. 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."

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

8. It is found that by letter dated January 23, 2020, the respondents acknowledged the complainant's request.

9. It is found that once the records responsive to the complainant's request were gathered, the complainant was notified by one of the respondents' staff members that the fee for the requested records was \$14.25 and that such records would be released upon payment of the fee.

10. It is found that the required fee was never paid and therefore the records were not provided to the complainant.

11. The complainant contends that the respondents' failure to notify his attorney that the records were available for pick up and of the fee due for such records constituted a denial of his request for such records.

12. In a letter dated May 4, 2020, in response to this FOI appeal, the respondents informed the complainant that the respondents were not responsible for notifying the complainant's attorney and arranging for payment and delivery of the responsive records.

13. At hearing, the complainant's attorney acknowledged that he was not aware that the complainant was expecting him to pay the fee and pick up the responsive records.

14. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant. The Commission denies the complainant's request for the consideration of the imposition of a civil penalty against the respondents.

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 January 13, 2021.



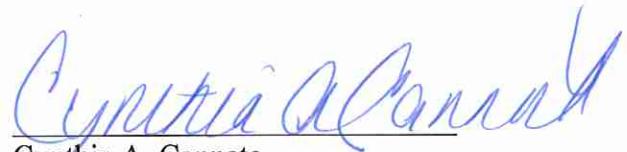
Cynthia A. Cannata
Acting Clerk of the Commission

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:

JASON GOODE, #228240, Northern Correctional Institution, PO Box 665, Somers, CT 06071

**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