

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Taylor,

Complainant

against

Docket # FIC 2020-0086

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

Respondents

July 28, 2021

The above-captioned matter was heard as a contested case on February 5, 2021, 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 The complainant is incarcerated at a facility administered by the respondent Department of Correction.

Subsequently, the complainant and respondents submitted after-filed exhibits, which have been admitted into evidence, without objection, and marked as follows:

Complainant's Exhibit B (after-filed): Letter from Counselor Sandler to Complainant, dated February 20, 2020;

Complainant's Exhibit C (after-filed): Letter from Complainant to Counselor Sandler, dated February 29, 2020;

Complainant's Exhibit D (after-filed): Letter from Counselor Sandler to Complainant, dated March 9, 2020;

Complainant's Exhibit E (after-filed): Letter from Complainant to Counselor Sandler, dated March 14, 2020; and

Respondents' Exhibit 2 (after-filed): Letter from Counselor Sandler to Complainant, dated March 26, 2020.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

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

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated February 7, 2020, the complainant requested that the respondents provide “copies of...[a]ll documents, reports and recommendations used and or generated in the applicant’s request for an international transfer under CGS Sec 18-91a in January 2019.” (“February 7th request”).
3. By letter of complaint filed February 20, 2020,² the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his February 7th request.
4. Section 1-200(5), G.S., provides:

“[p]ublic 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.
5. Section 1-210(a), G.S., provides, in relevant part:

[e]xcept 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 section 1-212.
6. Section 1-212(a), G.S., provides in relevant part: “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”
7. In addition, §1-212(c), G.S., provides, in relevant part, that: “[a] public agency may require the prepayment of any fee required or permitted under the Freedom of Information Act if such fee is estimated to be ten dollars or more....”
8. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212, G.S.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date for the duration of the current public health and civil preparedness emergency. Consequently, the Commission retains subject matter jurisdiction.

9. It is found that, by letter dated February 20, 2020, the respondents acknowledged the February 7th request described in paragraph 2, above, and informed the complainant that the requested records (totaling 331 pages) were available for dissemination and would be forwarded to him upon payment of \$82.75.

10. It is found that the fee for copies of the requested records is more than ten dollars and that the respondents were permitted to require prepayment of the copy fee.

11. It is found that the respondents complied with the complainant's February 7th request and made copies responsive to such request available to the complainant.³

12. Consequently, it is concluded 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 28, 2021.



Cynthia A. Cannata
Acting Clerk of the Commission

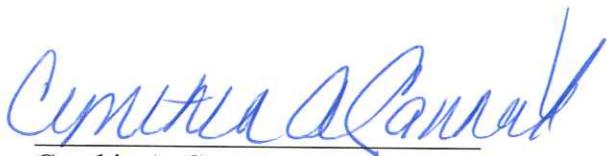
³ At the hearing in this matter, the complainant introduced evidence regarding a subsequent February 29, 2020, request that he made to the respondents for inspection of similar records, and alleged that the respondents denied him the opportunity to inspect records. However, the complainant did not dispute that the February 7th request, described in paragraph 2, above, and the February 20th complaint, described in paragraph 3, above, predate the February 29th request for inspection. Since the complaint in this matter does not allege a denial of a right to inspect records, such allegation will not be further addressed herein.

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:

DAVID TAYLOR, #272912, Osborn Correctional Institution, PO Box 100, Somers, CT 06071

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

A handwritten signature in blue ink that reads "Cynthia A. Cannata". The signature is fluid and cursive, with "Cynthia" on the first line and "A. Cannata" on the second line.

Cynthia A. Cannata
Acting Clerk of the Commission