

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Taylor,

Complainant

against

Docket # FIC 2020-0437

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

Respondents

March 23, 2022

The above-captioned matter was heard as a contested case on November 2, 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, pursuant to §149 of Public Act 21-2 (June Special Session). At the time of the request and at the time of the hearing, the complainant was incarcerated in a correctional facility of the respondents.

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 letter dated August 19, 2020, the complainant requested a copy of the following records from the respondents:
 - (a) COVID-19 test results, dated 7/26/2020 and 8/14/2020; and
 - (b) All notes, recommendations, recordings, orders, color images, and any other documentation generated on and since August 17, 2020, at UConn Health Center and Osborn CI related to the "EGD" procedure....

3. By letter of complaint filed September 14, 2020,¹ the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for certain public records.

4. At the time of the request, §1-200(5), G.S., provided:

“[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.²

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, (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.

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. It is found that the records described in paragraph 2, above, to the extent such records exist and are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

8. It is found that on or about October 5, 2020, the respondents provided to the complainant copies of certain responsive records.

9. At the hearing, however, the complainant contended that the respondents had not provided all responsive records, specifically, certain images responsive to the request identified in paragraph 2(b), above. The complainant claimed that the respondents should maintain such

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 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, through June 30, 2021. Consequently, the Commission retains jurisdiction.

² Section 1-200(5), G.S., was subsequently amended to include the term “videotaped.” See Public Act 21-2, §147 (June Sp. Sess.).

images because on two prior occasions, two different Department of Correction (“DOC”) physicians showed the images to the complainant.

10. It is found that, upon receipt of the request described in paragraph 2, above, the DOC Medical Records Department conducted a reasonable and diligent search of the complainant’s electronic medical record and physical medical record, where any responsive medical records would be maintained. However, it is found that the respondents did not locate the images that the complainant requested.

11. It is further found that the respondents notified the complainant that, to the extent such records exist, they may be maintained by the University of Connecticut Medical Center (“UConn”). It is further found that the respondents provided the complainant a copy of the necessary forms to request his medical records from UConn.

12. Based upon the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., 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 March 23, 2022.



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:

DAVID TAYLOR, #272912, Osborn Correctional Institution, P.O. 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



Cynthia A. Cannata
Acting Clerk of the Commission