

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Earl Bradley,

Complainant

against

Docket #FIC 2020-0528

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

Respondents

November 16, 2022

The above-captioned matter was heard as a contested case on July 8, 2022,¹ 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 through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session), as amended by §1 of Public Act 22-3. At the time of the request and hearing in this matter, the complainant was incarcerated at a facility of the 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 November 14, 2019, and addressed to the Freedom of Information ("FOI") Liaison at Cheshire Correctional Institution ("CCI"), the complainant requested that the respondents preserve video footage of an incident that occurred on November 12, 2019, at the Corrigan Correctional Institution ("November 12th incident"). It is found that on or about November 18, 2019, the FOI Liaison at CCI informed the complainant that such request was forwarded to Corrigan Correctional Institution.

3. It is found that by letters dated December 20, 2019, and February 18, 2020, the respondents informed the complainant that additional information (i.e., a time frame) was needed

¹ The Commission notes that a hearing was conducted in this matter on December 7, 2021, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. However, due to technical difficulties, no portion of the hearing was recorded. The July 8th hearing was scheduled for the purpose of recalling and taking the testimony of all witnesses and for providing argument on the complaint.

to process his request for video preservation. It is found that by letter dated March 5, 2020, the respondents informed the complainant that he may wish to request a copy of the “incident report” for the November 12th incident to obtain such information.

4. It is found that sometime between March 5, 2020, and June 4, 2020, the complainant made a request to the respondents for a copy of the incident report, described in paragraph 3, above. It is found that by letter dated June 4, 2020, the respondents informed the complainant that “[t]here is nothing conclusive for this request”.

5. By letter of complaint received and filed October 16, 2020,² the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by failing to provide him with copies of the “incident report” and “video preservation reference number.”³ At the hearing, the complainant also requested the imposition of civil penalties.

6. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.⁴

7. Section 1-210(a), G.S., provides in relevant part that:

[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

² On March 25, 2020, the Governor issued Executive Order 7M (§2(1)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), requiring the filing of an appeal with the Freedom of Information Commission not later than thirty days after any alleged denial. Executive Order 7M (§2(1)) applied to any appeal filed prior to April 19, 2021. The Governor also issued Executive Order 7M (§2(2)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which required the Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M (§2(2)), which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed prior to July 1, 2021. Consequently, the Commission has jurisdiction over the complaint.

³ In his complaint, the complainant also alleged that the respondents failed to comply with a request for medical records, which allegation he withdrew at the July 8th hearing. Accordingly, such allegation will not be further addressed herein.

⁴ The Commission notes that section 1-200(5), G.S., was subsequently amended to include the term “videotaped”. See June Sp. Sess. Public Act 21-2, §147.

the right. . . (3) receive a copy of such records in accordance with section 1-212.

8. Section 1-212(a), G.S., provides in relevant part that “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

9. It is found that the records requested by the complainant, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. With respect to “the video preservation reference number”, the complainant testified that the request for video preservation described in paragraph 2, above, included a request for a video preservation reference number. However, it is found that the request for video preservation did not include a request for such information, nor does a reference number exist.

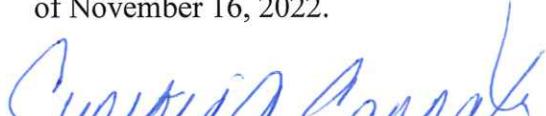
11. With respect to the “incident report”, it is found that no report or similar document was generated for the November 12th incident. It is found that the respondents do not maintain any records responsive to the complainant’s request for an incident report.

12. Accordingly, 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 November 16, 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:

EARL BRADLEY, #415266, 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 06109



Cynthia A. Cannata
Acting Clerk of the Commission