

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Shaquille Brown,

Complainant

against

Docket #FIC 2022-0489

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

Respondents

September 13, 2023

The above-captioned matter was heard as a contested case on May 16, 2023, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon J.).

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 form dated September 8, 2021, the complainant requested a copy of the following record: “[t]he CN 9504 Disciplinary Process Summary Report [f]rom [t]he threat[e]ning ticket issued to me on 9/5/21” (“September 8<sup>th</sup> request”).<sup>1</sup>
3. It is found that, on September 13, 2022, the respondents acknowledged the complainant’s request.
4. It is found that, by form dated October 2, 2022, the complainant again requested a copy of the same records described in paragraph 2, above (“October 2<sup>nd</sup> request”).

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<sup>1</sup> It is found that the complainant erroneously dated his request with the wrong year and that the respondents received such request on September 13, 2022.

5. It is found that, on October 4, 2022, the respondents acknowledged the complainant's October 2<sup>nd</sup> request and informed the complainant that they could not locate any records responsive to such request.

6. By letter of complaint, dated October 13, 2022 and filed October 20, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records, described in paragraph 2, above. The complainant also requested the imposition of a civil penalty against the respondents.

7. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

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

9. 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."

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

11. At the hearing in this matter, the complainant testified, and it is found, that he was issued a Disciplinary Report for an incident on September 5, 2021 ("September 5<sup>th</sup> incident"). The complainant argued that a corresponding Disciplinary Process Summary Report ("DPS Report") should exist and be maintained by the respondents because the Department of Correction's Administrative Directive Number 9.5 requires the respondents to create such DPS Report whenever a Disciplinary Report is deferred or dismissed or the charge is substituted.

12. It is found that the respondents did not enact sanctions or take other disciplinary action against the complainant as a result of the September 5<sup>th</sup> incident.

13. It is found, that, upon receipt of the complainant's October 2<sup>nd</sup> request, the FOI Liaison for the respondents conducted a search for responsive records in all locations where the respondents would maintain such DPS Report and also contacted a second correction facility, where the complainant was transferred the day after the September 5<sup>th</sup> incident, to determine whether the DPS Report was transferred along with the complainant. It is found that no DPS Report was located as a result of such search.

14. Based on the foregoing, it is found that the respondents conducted a thorough search for the requested records described in paragraph 2, above.

15. The respondents' attorney represented, and it is further found, that due to a "process failure" the September 5<sup>th</sup> incident did not result in a DPS Report, and therefore the respondents do not maintain any records responsive to the complainant's requests, described in paragraphs 2 and 4, above.

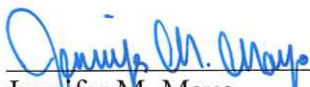
16. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

17. Because the respondents did not violate the FOI Act under the facts and circumstances of this case, consideration of the complainant's request for the imposition of a civil penalty is not warranted.

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 September 13, 2023.

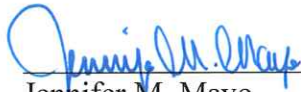
  
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Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**SHAQILLE BROWN, #361798**, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

**ANGEL QUIROS, 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



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Jennifer M. Mayo  
Acting Clerk of the Commission