

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

GerJuan Tyus,

Complainant

against

Docket # FIC 2020-0195

James Rovella, Commissioner, State of
Connecticut, Department of Emergency
Services and Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

April 28, 2021

The above-captioned matter was heard as a contested case on January 26, 2021, at which time the complainant and the respondents appeared via teleconference, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. For the purposes of hearing only, this matter was consolidated with Docket # FIC 2019-0642, GerJuan Tyus v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Public Protection. 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 May 1, 2020, 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. Additionally, the complainant requested the Commission consider the imposition of a civil penalty against the respondents.
3. It is found that, by letter dated April 16, 2020, the complainant requested that the respondents provide him with copies of the following records.

- (a) A list of all the cases that were examined and technically reviewed during the time range of 1/1/2007 to 5/1/2007, and

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

the location of the evidence.

(b) The polaroid photos regarding lab case 06-3918; 07-000224; 07-167 and 07-244.

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 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, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212, G.S.

8. It is found that as of the date of the hearing on this matter, the complainant had not received any of the requested records.

9. It is found that on June 22, 2020, in accordance with §1-210(c), G.S.,² and the policy of the Department of Correction, the respondents sent the requested records to the Department of Correction’s FOI Administrator, A. Campanelli. Additionally, it is found that in a follow up

² Conn. Gen. Stat. Sec. 1-210(c) Whenever a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Hospital facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Hospital facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Hospital facility.

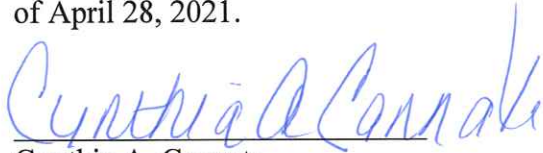
email message sent to the respondents on July 16, 2020, Mr. Campanelli confirmed that the records had been forwarded to the facility where the complainant was housed. However, there is no information as to whether the records were forwarded from officials at the facility to the complainant.

10. It is concluded that the respondents did not violate the FOI Act as alleged by the complainant. Accordingly, the Commission declines to consider the imposition of a civil penalty.

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 April 28, 2021.



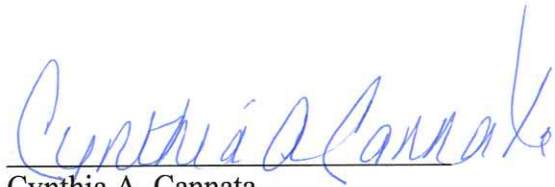
Cynthia A. Cannata
Acting Clerk of the Commission

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:

GERJUAN TYUS, #300985, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

JAMES ROVELLA, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney Janet Ainsworth, State of Connecticut, Department of Emergency Services and Public Protection, 1111 Country Club Road, Middletown, CT 06457



Cynthia A. Cannata
Acting Clerk of the Commission