

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Victor Velasco,

Complainant

against

Docket #FIC 2020-0252

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

Respondents

December 15, 2021

The above-captioned matter was scheduled for hearing as a contested case on April 23, 2021, at which time both the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2020-0278; Victor Velasco v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction. 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 of the Connecticut Department of Correction. The case caption has been amended to reflect the title of the respondent Commissioner.

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 May 15, 2020, the complainant requested that the respondents provide the following:

A copy of the last two pages decrypted by the F.B.I. analyst Purvi Lakami [sic] in the Disciplinary Report of 6/14/2016, Report

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

Number CRCC1606045. The Disciplinary Report says 'the messages were found on pages 26, 27, 35, 36, 37, 51, 56, 57, 67, 68, 74, 88 and 100 of the book.'

I would like to know what pages 88 and 100 are, as they have never been disclosed, yet the F.B.I. did decode them. I have everything else, but I've never seen these pages. I have the coded pages as the court released it to me, but I don't know what they mean. Please send me a copy. ("May 15th request").

3. By letter of complaint filed June 5, 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 May 15th request. The complainant also sought the imposition of civil penalties.

4. At the time of the request, §1-200(5), G.S., defined "public records or files" as:

[a]ny 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.³

5. 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 the right to (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212.

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

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.

³ 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.

7. It is found that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that the disciplinary report, described in paragraph 2, above, concerns a search conducted by the respondents of the complainant's property on June 13, 2016. According to the disciplinary report:

[o]n 6/13/16 during a search of I/M Velasco's property a book (Manga masters of the art) was noted as having several pages with what appeared to be coded messages. The messages were found on pages 26, 27, 35, 36, 37, 51, 56, 57, 67, 68, 74, 88 and 100 of the book. The coded messages were photocopied and sent to C/S Aldi for review. On 6/14/16 he deemed that the coded messages were all Latin King related laws/rules based on the decryption of said material by the FBI. At the conclusion of the investigation, based on the findings and the fact that this material was found in I/M Velasco's personal property he was issued this Class A Discipline for SRG [Security Risk Group] Affiliation.

9. It is found that the respondents contacted the Federal Bureau of Investigation ("FBI") for a cryptanalysis of certain pages of the book found during the June 13, 2016 search of the complainant's property. It is found that a FBI cryptanalyst provided the respondents with decryptions of pages 26, 27, 35, 36, 37, 51, 56, 57, 67, 68, and 74 of such book. It is also found that the complainant has copies of such decryptions, and such records are not at issue herein.

10. At the hearing, Counselor Supervisor ("CS") Campanelli, the respondents' FOI Administrator, testified that, as part of his search for responsive records (i.e., the decryptions of pages 88 and 100), he contacted Deputy Warden Dougherty for clarification as to what records were submitted to the FBI for cryptanalysis. He also contacted the FOI Liaison at the correctional facility at which the complainant is incarcerated as well as the head of the respondents' security division located at their central office. CS Campanelli testified that although pages 88 and 100 were submitted to the FBI for cryptanalysis, the cryptanalysis report provided by the FBI to the respondents did not contain any analysis of such pages.

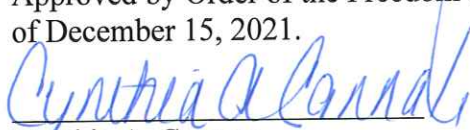
11. It is found that the respondents do not maintain any responsive records.

12. Accordingly, it is concluded that the respondents did not violate the FOI Act 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 December 15, 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:

VICTOR VELASCO, #213065, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

ROLLIN COOK, 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