

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Jason Goode,

Complainant

against

Docket #FIC 2020-0124

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

Respondents

October 27, 2021

The above-captioned matter was heard as a contested case on January 7, 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.¹ The complainant is incarcerated at a correctional institution operated by 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. By letter received on March 9, 2020,² the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the record described in paragraph 3, below.
3. It is found that sometime prior to February 6, 2020, the complainant made a request

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

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 jurisdiction.

to the respondents for a copy of “Page 13 of MWCI IR 1/5/18.” It is found that such record consists of one page from an incident report pertaining to an incident involving the complainant which took place at MacDougall-Walker Correctional Institution (“MacDougall-Walker”) on January 5, 2018.

4. It is found that, by letter dated February 6, 2020, the respondents’ FOI liaison at MacDougall-Walker provided the complainant with a redacted copy of the requested record, described in paragraph 3, above. It is found that the respondents redacted the first name of a correctional officer and the “narrative” section of the incident report, including the color of an emergency “code”.

5. It is found that, by letter dated February 17, 2020, the complainant requested a “privilege log” for the record described in paragraph 4, above.

6. It is found that, by letter dated February 21, 2020, the respondents notified the complainant that there are no documents responsive to his request for a “privilege log”, as described in paragraph 5, above. The respondents also informed the complainant that “the document was redacted for safety and security as well as under Connecticut General Statute[s] 18-101f and HIPAA [Health Insurance Portability and Accountability Act].”

7. It is found that after the filing of the complaint in this matter, by letter dated June 29, 2020, the respondents’ FOI Administrator reviewed the complainant’s request and provided the complainant with another copy of the requested record with fewer redactions. The respondents informed the complainant that the redactions pertain to staff injuries. The respondents again informed the complainant that the remaining redactions were exempt pursuant to §18-101f, G.S., and HIPAA. It is found that the complainant refused to sign the acknowledgement form acknowledging receipt of such record.

8. 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.³

9. 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

³ The Commission notes that the definition of “public records or files” in §1-200(5), G.S., subsequently was amended to include the term “videotaped”. See June Sp. Sess. Public Act 21-2, §147.

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 section 1-212....

10. 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.”

11. It is found that the requested record is a public record within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

12. On January 15, 2021, the respondents submitted an unredacted copy of the requested record for in camera inspection, along with an in camera Index.⁴ Such record has been marked as IC-2020-0124-1. At the hearing in this matter and on the in camera Index, the respondents claimed that lines 23-30 of IC-2020-0124-1⁵ are exempt from disclosure pursuant to §18-101f, G.S.⁶

13. Section 18-101f, G.S., provides, in relevant part:

[a] personnel or medical file or similar file concerning a current or former employee of the Division of Public Defender Services, Department of Correction or the Department of Mental Health and Addiction Services, including, but not limited to, a record of a security investigation of such employee by the department or division or an investigation by the department or division of a discrimination complaint by or against such employee, shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200, to any individual committed to the custody or supervision of the Commissioner of Correction or confined in a facility of the Whiting Forensic Hospital. For the purposes of this section, an “employee of the Department of Correction” includes a member or employee of the Board of Pardons and Paroles within the Department of Correction.

⁴ At the hearing, the complainant requested in camera review of the record at issue. Such request was granted by the hearing officer.

⁵ The respondents did not number the lines on the in camera records; therefore, the hearing officer numbered such lines in pencil in order to identify which portion of the record is exempt from disclosure.

⁶ On the in camera Index, the respondents claimed that line 5 (described as first name of Department of Correction staff member) and line 14 (described as code color/emergency protocols) are exempt from disclosure pursuant to §1-210(b)(18), G.S. At the hearing, however, the complainant testified that he did not contest such redactions. Accordingly, because the complainant did not contest such redactions, such information is not at issue and therefore will not be further addressed herein.

14. The respondents' FOI Administrator testified that the redacted records consist of information relating to staff injuries and medical treatment provided to officers involved in an altercation with the complainant, and that such information would be found in a "personnel or medical file or similar file."

15. Based upon careful inspection of IC-2020-0124-1 (lines 23-30) and the testimony provided at the hearing, it is found that such record constitutes a personnel or medical file or similar file of a current employee of the respondent department. It is further found that the complainant is an individual committed to the custody of the respondent department.

16. It is concluded that the record described in paragraph 13, above, is exempt from mandatory disclosure pursuant to §18-101f, G.S. It is further concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding such record from the complainant.

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 October 27, 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:

JASON GOODE, #228240, MacDougall-Walker CI, 1153 East Street South, Suffield, CT 06080

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