

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Doug Lieb,

Complainant

against

Docket # FIC 2020-0242

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

Respondents

January 12, 2022

The above-captioned matter was heard as a contested case on April 20, 2021, July 27, 2021, and October 28, 2021, at which times the complainant and the respondents appeared, stipulated to certain facts, and presented testimony and argument on the complaint. Due to the COVID-19 pandemic and the state's response to it, the hearings held after June 30, 2021, were conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session). The hearing held prior to June 30, 2021, was held remotely pursuant to Executive Order 7B, issued March 14, 2020.¹

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. It is found that, by letter dated May 12, 2020, the complainant requested that the respondents provide him with copies of the following records:
 - a. Records showing the name and release date of each and every DOC inmate for whom DOC notified ICE, while the inmate was serving a sentence in DOC custody, that the inmate is being, or will be released on a certain date, from 10/1/19-present.
 - b. Copies of all written notifications provided to inmates under CGS §54-192h(e)(1), while the inmate was serving a sentence in DOC custody, from 10/1/19-present, concerning notification provided to ICE of the inmate's release date and/or DOC's reasons for complying with an ICE detainer.

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

- c. Copies of all written notifications provided to inmates' attorneys under CGS §54-192h(e)(1), while the inmate was serving a sentence in DOC custody, from 10/1/19-present, concerning notification provided to ICE of the inmate's release date and/or DOC's reasons for complying with an ICE detainer.

3. By letter of complaint filed June 1, 2020,² the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for the records described in paragraph 2, above.

4. 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 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 . . . (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."

7. It is found that the records described in paragraph 2, above, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

² On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 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, through June 30, 2021. Consequently, the Commission retains jurisdiction.

³ Public Act 21-2 (June Sp. Sess.) amended §1-200(5), G.S., to add the word "videotaped" to the definition of public records or files. Effective June 23, 2021.

8. It is found that the respondents conducted an exhaustive search of files in multiple locations and were able to retrieve a number of records responsive to the complainant's request.

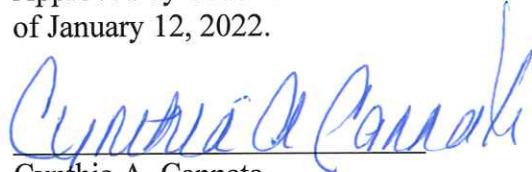
9. It is found that all of the responsive records were disclosed to the complainant. It is further found that the complainant was satisfied with such disclosure.

10. Accordingly, it is concluded that the respondents did not violate the FOI act as alleged by 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 12, 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:

DOUG LIEB, Kaufman Lieb Lebowitz & Frick LLP, 10 E. 40th Street, Suite 3307, New York, NY 10016

**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 and 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