

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Daryl Valentine,

Complainant

against

Docket # FIC 2021-0053

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

Respondents

July 13, 2022

The above-captioned matter was heard as a contested case on December 1, 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 through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session). At the time of the request and at the time of the hearing, the complainant was incarcerated in a correctional facility of 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. It is found that, by letter dated December 28, 2020, the complainant requested to inspect the last name and job title of certain medical unit staff employed at the Cheshire Correctional Institution of the respondent Department of Correction ("DOC").
3. It is found that, on or about January 5, 2021, the respondents acknowledged the complainant's request. It is further found that, by letter dated January 21, 2021, the respondents notified the complainant that a copy of records responsive to the request set forth in paragraph 2, above, were available upon receipt of payment in the amount of \$.50 (two pages).

4. By Inmate Request Form dated January 22, 2021, the complainant renewed his request to inspect records responsive to the request set forth in paragraph 2, above.

5. By letter of complaint filed February 2, 2021,<sup>1</sup> the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request to inspect public records.

6. 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.<sup>2</sup>

7. 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

8. 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.”

9. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. It is found that, by letter dated July 26, 2021, the respondents attempted to provide the complainant with two pages of responsive records, free of charge. However, it is found that the complainant refused to accept the records.

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<sup>1</sup> 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.

<sup>2</sup> Section 1-200(5), G.S., was subsequently amended to include the term “videotaped.” See Public Act 21-2, §147 (June Sp. Sess.).

11. At the hearing, the complainant contended that he requested to inspect the records and that the respondents had violated his right to inspect under the FOI Act. The respondents contended that there is nothing under the FOI Act which requires the respondents to deliver records to the complainant's location in order to allow him to inspect the records.

12. The Commission has interpreted §1-210(a), G.S. to mean that a person may inspect public records at the location where the agency maintains its records, during the agency's normal business hours. Therefore, an individual's inability to exercise his right to inspect does not create a duty on the part of the public agency to bring records to the requester. See Norman Gaines v. Records Liaison, State of Connecticut, University of Connecticut Health Center, Correctional Managed Care, et al., Docket #FIC 2017-0369 (March 28, 2018) ("Implicit in the right to inspect records during regular office or business hours is the requirement that an individual appear during regular office or business hours at the office of the public agency at which the records are maintained.... An individual's inability to exercise his right [to inspect] whether it be because he is confined to a prison facility...to a sick bed at home, or because he is unable to be excused from his job during the day, does not create a duty on the part of the public agency to bring the records to that individual so that he can...inspect them."); and Noah Snyder v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction, et al., Docket #FIC 2019-0231 (Sept. 11, 2019) (citing Gaines, the Commission concluded that in order to exercise the right to inspect records pursuant to Conn. Gen. Stat. §1-210(a), a requester must have the ability to appear in person at the regular office or place of business of the public agency during regular business hours).

13. Similarly, in Ian Cooke v. Commissioner, State of Connecticut, Department of Correction, et al., Docket # FIC 2019-0310 (Oct. 23, 2019), the Commission concluded that the respondents did not violate the FOI Act when they declined to transfer records from their regular office to the complainant's location in order to allow the complainant to inspect the requested records. Such Final Decision was appealed and subsequently affirmed by the Superior Court in Ian Cooke v. Freedom of Information Commission, HHB-CV-19-5026783 (Conn. Super. Ct. Feb. 23, 2022). Specifically, the court concluded that "the public's inspection right is a right to inspect records at the agency's regular office or place of business" and that a requester's right to inspect is dependent upon the requester's ability to access a public agency's regular office or place of business.

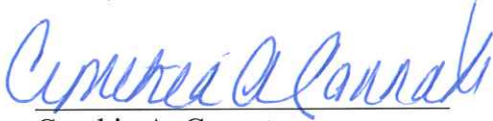
14. In this case, the records responsive to the complainant's request are maintained at its regular office, located at 24 Wolcott Hill Rd, Wethersfield, CT 06109. It is further found that, because the complainant is incarcerated, he is unable to appear in person to inspect such records at the respondents' regular office. It is further found that the complainant's inability to appear in person to inspect such records at the respondents' regular office does not create a duty on the part of the respondents to bring records to the complainant to inspect them.

15. It is therefore concluded that the respondents did not violate §§ 1-210(a) and 1-212(a), G.S., 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 July 13, 2022.



Cynthia A. Cannata  
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:

**DARYL VALENTINE, #129660**, Osborn CI, 335 Bilton Road, Somers, CT. 06071

**ANGEL QUIROS, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Lori McCurdy, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109 and Attorney Jennifer Lepore, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission