

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Travis Armstrong,

Complainant

against

Docket # FIC 2021-0403

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

July 13, 2022

The above-captioned matter was heard as a contested case on May 5, 2022, 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 hearing in this matter, the complainant was incarcerated in a correctional facility of the Department of Correction. For purposes of the hearing, the above-captioned matter was consolidated with the Docket #FIC 2021-0289, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; Docket #FIC 2021-0347, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; and Docket #FIC 2021-0450, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection.

Subsequent to the hearing in this matter, the respondents submitted after-filed exhibits without objection. Such exhibits have been admitted into evidence and marked as:

Respondents' Exhibit 4 (after-filed): Complainant's FOI Request dated July 12, 2021;
Respondents' Exhibit 5 (after-filed): Memorandum from Respondents to Forensic
Laboratory, dated July 23, 2021;
Respondents' Exhibit 6 (after-filed): Respondents' Acknowledgment of Complainant's
Request, dated July 23, 2021;

Respondents' Exhibit 7 (after-filed): Cover Letter from Respondents to Complainant, dated September 3, 2021;

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 form dated July 12, 2021, the complainant requested copies of the following records: "all reports, diagrams, photographs, notes and worksheets generated in connection with LAB # DSS-18-003185."
3. By letter of complaint, dated July 16, 2021 and filed July 22, 2021, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records, described in paragraph 2, above.
4. It is found that, by letter dated July 23, 2021, the respondents acknowledged the complainant's request.
5. 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, videotaped, printed, photostated, photographed or recorded by any other method.
6. 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 ... (3) receive a copy of such records in accordance with section 1-212.
7. 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."
8. It is found that the requested records, to the extent such records exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212, G.S.
9. Section 1-206(a), G.S., provides, in relevant part:

[a]ny denial of the right to inspect or copy records provided for under section 1-210 shall be made to the person requesting such right by the public agency official who has custody or control of the public record, in writing, within four business days of such request ... Failure to comply with a request to so inspect or copy such public record within the applicable number of business days shall be deemed a denial.

10. Section 1-206(b)(1), G.S., provides in relevant part: "Any person denied the right to inspect or copy records under 1-210 ... or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission...."

11. It is found that, although the complainant's request was dated July 12, 2021, it was not notarized until July 16, 2021. It is therefore found that the earliest date on which the complainant could have made his request for records was July 16, 2021, which is the same date that he appealed to this Commission.

12. It is therefore found that, as of the date of the complaint, there was no denial of the complainant's rights under the FOI Act.

13. Accordingly, it is concluded that the Commission lacks jurisdiction over this 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 13, 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:

TRAVIS ARMSTRONG, #282986, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

JAMES ROVELLA, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney Colin Milne, 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