

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Terrell Canady,

Complainant

against

Docket #FIC 2021-0534

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

Respondents

July 27, 2022

The above-captioned matter was heard as a contested case on March 1, 2022, at which time the complainant and the respondents appeared remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Sp. Sess.). At the time of the request and the hearing, the complainant was incarcerated.

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, on five separate Inmate Request Forms, each dated August 20, 2021, the complainant requested copies of certain records from the respondents, specifically:
 - (a) inmate request form that was “relied upon to dispose of my Administrative Remedy date of disposition 02/19/21”, or any other “document/report utilized to make this disposition;”
 - (b) “logged record/account of correspondence from HD Products & SVCS...rejected 01/15/21” and the “name of the person who authorized the return to sender;”
 - (c) “document/report/exhibits relied upon to dispose of my Administrative Remedy date of disposition 03/09/21;”
 - (d) emails/memos regarding single cell status between June 21, 2016 to [the date of the request]” between certain named DOC employees;

(e) information/reports/exhibits relied upon to dismiss the disciplinary charge of “threats class A”, report #CCIC 2016 06 081.

3. It is found that the respondents received and acknowledged the requests, described in paragraph 2, above, on or about August 24, 2021.

4. By letter dated and filed September 13, 2021, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his requests.

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 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 records, described in paragraph 2, above, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. With regard to the records, described in paragraph 2(a), above, it is found that the respondents informed the complainant in writing that they do not maintain such records. At the hearing in this matter, however, the complainant contested this assertion, arguing that the respondents should maintain such records. The respondents’ witness, Officer Lamare, who serves as an FOI/Litigation liaison for the respondent department (“DOC”), testified, and it is found, that she conducted a thorough search for such records and that no records were located.

10. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged, with regard to the request, described in paragraph 2(a), above.

11. With regard to the records, described in paragraph 2(b), above, it is found that the respondents located and provided to the complainant a copy of one responsive record. It is found that the respondents conducted a thorough search for any additional records responsive to the request and that no additional records were located.

12. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged, with regard to the request, described in paragraph 2(b), above.

13. With regard to the request, described in paragraph 2(c), above, it is found that Officer Lamare, who received the request, misunderstood it, believing the request was identical to the request, described in paragraph 2(a), above. It is found that the respondents did not conduct a search for records responsive to the request described in paragraph 2(c), above. Therefore, it is found that the respondents failed to prove that they provided all records responsive to such request, to the complainant.

14. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., with regard to the request, described in paragraph 2(c), above.

15. With regard to the request, described in paragraph 2(d), above, it is found that the respondents requested that the information technology division within the state Department Administrative Services¹ conduct a search for responsive emails. It is found that such search located two responsive emails, using the time frame and search terms provided by the complainant. It is found that the respondents searched the electronic mailboxes of three of the DOC employees named by the complainant in his request, but were unable to search the mailboxes of the other named employees because the DOC employs more than one employee with the same last name and the complainant did not provide such employees' first names. It is found, however, under the facts and circumstances of this case, that the respondents conducted a thorough search for the requested emails.

16. It is found that the respondents provided the two pages of emails, referenced in paragraph 15, above, to the complainant with the first names of DOC employees, and information related to other inmates, redacted.² At the hearing in this matter, the complainant stated that he was only contesting the redaction of the information related to other inmates.

17. Counselor Supervisor Campanelli, the DOC's FOI Administrator, testified at the hearing in this matter, that the redacted information related to other inmates consists of: names, inmate numbers, housing location, reason for such location and start date, and mental health status. He further testified that disclosure of such information may result in a safety risk pursuant §1-210(b)(18), G.S.

¹ The Bureau of Enterprise Systems and Technology (BEST) within the Department of Administrative Services maintains the computer servers for the DOC.

² The respondents did not redact the information related to the complainant.

18. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of “[r]ecords, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution....”

19. In Commissioner, Department of Correction v. Freedom of Information Commission, Superior Court, Judicial District of New Britain at New Britain, Docket No. CV074015438 and CV084016766 (November 3, 2008), the court concluded that the FOIC’s role in reviewing the DOC Commissioner’s safety risk determination is to determine “whether the [commissioner’s] reasons were pretextual and not bona fide, or irrational.”

20. CS Campanelli testified that disclosure of the redacted information may constitute a safety risk because if inmates have such information about other inmates they could use it to threaten other inmates, and manipulate staff and other inmates, which could cause risk of harm to a person or disorder in the correctional facility.

21. Based upon the foregoing credible testimony, it is found that the respondent Commissioner had reasonable grounds to believe that disclosure of the redacted information may result in a safety risk. It is further found that the reasons given are bona fide, and not pretextual, or irrational.

22. Accordingly, it is found that the redacted information, described in paragraph 17, above, is exempt from disclosure pursuant to §1-210(b)(18), G.S. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by withholding such information from the complainant.

23. With regard to the records, described paragraph 2(e), above, it is found that the complainant previously, on two occasions, had requested the same records, and that the respondents previously provided a copy of such records to the complainant in response to those requests. It is found that when they received the August 20th request, described in paragraph 2(e), above, Officer Lamare conducted another search for any additional responsive records but did not locate any additional records.

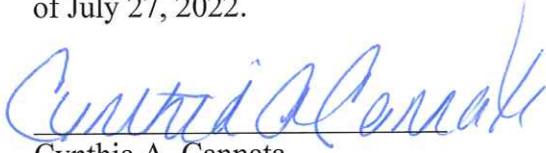
24. Based upon the facts and circumstances of this case, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged, with regard to the request, described in paragraph 2(e), above.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Forthwith, the respondents shall conduct a search for records responsive to the request, described in paragraph 2(c), of the findings, above. If responsive records are located, the respondents shall promptly provide a copy of such records to the complainant, free of charge. If no responsive records are located, the respondents shall promptly so inform the complainant, in writing.

2. Henceforth, the respondents shall strictly comply with §§1-210(a) and 1-210(b), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 27, 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:

TERRELL CANADY, #326161, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Tracie C. Brown, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission