

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Daryl McEntyre Sr.,

Complainant

against

Docket #FIC 2021-0375

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

Respondents

June 22, 2022

The above-captioned matter was heard as a contested case on May 16, 2022, at which time the complainant and the respondents appeared 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), as amended by §1 of Public Act 22-3. The complainant was incarcerated at a facility of the Department of Correction at the time of the request and at the time of the hearing.

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 June 9, 2021, the complainant requested from the respondents a copy of "any and all documents or information (reports/e-mails) produced or generated by Capt. Rivera, Lt. Roy, Capt. Claudio and any other staff involved in the investigation of Daryl McEntyre #186361 while at MacDougall C.I. from August 2016 until present."
3. It is found that, by letter dated June 18, 2021, the respondents acknowledged the request described in paragraph 2, above, and informed the complainant that they would gather and review any responsive records.
4. By letter of complaint, dated July 9, 2021, and filed July 13, 2021, 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 records described in paragraph 2, above.

5. 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.¹

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 are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. With regard to the request described in paragraph 2, above, the respondents contended that such records are exempt from disclosure pursuant to §18-101f, G.S.

10. 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 ... Department of Correction ... 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 For the purposes of this section, an “employee of the Department of

¹ Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “[p]ublic records or files” to also include data or information that is “videotaped”.

Correction” includes a member or employee of the Board of Pardons and Paroles within the Department of Correction.

11. It is found that the records responsive to the request described in paragraph 2, above, consist of a security investigation of an employee of the respondent department. Based upon the testimony provided at the hearing, it is found that the requested records described in paragraph 2, above, constitute a personnel or medical file or similar file of a current or former employee of the respondent department, within the meaning of §18-101f, G.S. It is further found that the complainant was committed to the custody of the respondent department at the time of the request and at the time of the hearing in this matter.

12. Therefore, it is found that the requested records described in paragraph 2, above, are exempt from disclosure pursuant to §18-101f, G.S., under the facts and circumstances of this case.

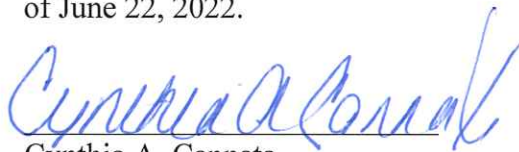
13. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to the records described in paragraph 2, above, as alleged in the complaint.

14. The Commission notes that, by letter dated September 30, 2021, the respondents informed the complainant that, pursuant to §18-101f, G.S., they could not provide the complainant with copies of the requested records, but that the complainant could have his legal representative contact the respondents to request such copies. Such offer was again made to the complainant at the hearing in this matter, and the complainant indicated to the Hearing Officer that he may pursue that course of action.

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 June 22, 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:

DARYL MCENTYRE SR., #186361, Cheshire CI, 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, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission