

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jan Gawlik,

Complainant

against

Docket #FIC 2021-0140

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

Respondents

June 8, 2022

The above-captioned matter was heard as a contested case on November 10, 2021, at which time the complainant and 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). The complainant is incarcerated at a facility of the Connecticut Department of Correction.

After the hearing in this matter, the respondents submitted, without objection, one after-filed exhibit, which has been marked as Respondents' Exhibit 2: Department of Correction Administrative Directive 6.4.

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 a form titled "Application for Freedom of Information Act", dated February 16, 2021, the complainant requested that the respondents provide him with copies of:

directives, policies, ect [sic], that articulate[] disability protocols when a disabled 'qualified individual' is transported between facilities, courts, in house administrative segregation, [and] the procedures of chaining, handcuffing, restraining, ect [sic], disabled documented incarcerated by officers, staff, CTU, ect[sic].

(Disability Policy). (Emphasis in original). (“February 16th request”).

3. It is found that by letter dated March 3, 2021, the respondents provided the complainant with a copy of the Department of Correction’s Administrative Directive 10.19, titled “Americans with Disabilities Act.”

4. By letter received March 15, 2021, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information Act by failing to provide him with copies of the records described in paragraph 2, above. The complainant also requested the imposition of civil penalties against the respondents.

5. At the time of the request, section 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.¹

6. 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.

7. 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.”

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

9. It is found that after the filing of the complaint in this matter, the respondents conducted an additional search for responsive records and provided the complainant with a copy of the Department of Correction’s Administrative Directive 6.4, titled “Transportation and Community Supervision of Inmates.” It is found that the respondents did not believe that such record was directly responsive to the complainant’s February 16th request, but nevertheless provided him with a copy of such directive because it pertained to the transportation of inmates.

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”.

10. At the hearing, the complainant did not dispute that he received copies of Administrative Directives 6.4 and 10.19. The crux of the complainant's argument was that such administrative directives were not in compliance with the Americans with Disabilities Act. The complainant contended that such directives should contain language addressing the chaining, handcuffing and restraining of disabled individuals who are being transported, and requested that such directives be updated.

11. It is found that the Commission does not have jurisdiction over the content of the Department of Correction's administrative directives, and compliance with the Americans with Disabilities Act.

12. It is found that the respondents provided the complainant with all records they maintain that are responsive to his February 16th request.

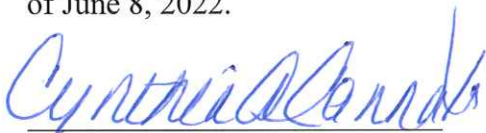
13. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

14. Because the respondents did not violate the FOI Act, the Commission need not consider the complainant's request for a civil penalty.

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 June 8, 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:

JAN GAWLIK, #138888, Cheshire CI, 900 Highland Avenue, Cheshire, CT. 06410

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



Cynthia A. Cannata
Acting Clerk of the Commission