

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Alejandro Velez,

Complainant

against

Docket #FIC 2021-0404

James Rovella, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of Connecticut,
Department of Emergency Services and
Public Protection,

Respondents

March 9, 2022

The above-captioned matter was heard as a contested case on January 20, 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). The complainant was incarcerated at a facility of the Department of Correction.

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 April 5, 2021, the complainant made a request to the respondents for certain records pertaining to case number: 1700335641.
3. It is found that the respondents did not receive the April 5, 2021 request letter, described in paragraph 2, above, from the complainant.
4. It is found that approximately three months later, by letter dated July 1, 2021, the complainant followed-up on his April 5, 2021 records request and again requested the records, described in paragraph 2, above.
5. It is found that the respondents did not receive the July 1, 2021 request letter, described in paragraph 4, above, from the complainant.
6. By letter of complaint, dated July 12, 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 him with the records, described in paragraph 2, above. The complainant also requested the imposition of civil penalties.

7. 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, except when the request is determined to be subject to subsections (b) and (c) of section 1-214, in which case such denial shall be made, in writing, within ten 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 to be a denial.

8. Section 1-206(b)(1), G.S., provides in relevant part: "[a]ny 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...."

9. The Commission notes that it sent letters to the parties on October 8, 2021, informing them of the complaint in this matter, and that the letters sent to the respondents included copies of the complaint and the April 5, 2021 and July 1, 2021 request letters, which the respondents received for the first time.

10. It is found that at the time of the complaint, the respondents had not received the requests, described in paragraphs 2 and 4, above, and therefore had not denied the complainant's request for records, or denied any other right under the FOI Act within the meaning of §1-206(b)(1), G.S. Because there was no denial at the time of the complaint, it is concluded that the respondents did not violate the FOI Act under the facts of this case.

11. Nevertheless, upon receiving notice of complaint from the Commission, the respondents searched for responsive records, and on January 18, 2022, the respondents sent the complainant a multi-page packet of documents (with redactions) responsive to the complainant's records requests. It is found that such records were delivered to the complainant by the Department of Correction (with additional redactions) on January 19, 2022.

12. Because the respondents did not violate the FOI Act under the facts of this case, consideration of the complainant's request for the imposition of civil penalties is not warranted.

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 March 9, 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:

ALEJANDRO VELEZ, #225611, MacDougall-Walker CI, 1153 East Street South, Suffield, CT 06080

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 Janet Ainsworth, 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