

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Andres Sosa,

Complainant

against

Docket #FIC 2020-0404

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

Respondents

October 12, 2022

The above-captioned matter was heard as a contested case on November 9, 2021, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The hearing was conducted remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Sp. Sess.). The complainant was incarcerated at the time of the request and 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 on an Inmate Request Form, dated July 31, 2020, the complainant requested from the respondents a copy of (1) an email dated June 20, 2016 from Antonio Santiago to Jason Nemeth, regarding the complainant; (2) an email dated February 1, 2016 from Joseph Lynette to Antonio Santiago and several other individuals, regarding to complainant; and (3) an email dated January 31, 2016 from Neil Parille to Joseph Lynette, regarding the complainant.
3. It is found that, by letter dated August 10, 2020, the respondents acknowledged the request.
4. By letter dated August 24, 2020 and filed August 28, 2020,<sup>1</sup> the complainant appealed to this Commission, alleging the respondents violated the Freedom of Information (“FOI”) Act by denying his request.

---

<sup>1</sup> On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M was applicable to any appeal pending with the Commission

5. It is found that, by letter dated September 28, 2020, the respondents notified the complainant that the responsive records had been located. It is further found that redacted copies of such records were provided to the complainant on September 29, 2020.

6. 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.<sup>2</sup>

7. 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....

8. 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.”

9. It is found that the requested records, described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is found that the respondents provided all records they maintain that were responsive to the request. At the hearing in this matter, the complainant argued that the respondents improperly redacted certain information contained in the responsive records, specifically, the communications between Neil Parille and employees of the respondent

---

on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction over this matter.

<sup>2</sup> Public Act 21-2 (June Sp. Sess.) amended the definition of “public records or files” to also include data or information that is “videotaped.”

Department of Correction (“DOC”).<sup>3</sup> The respondents argued that the redacted information is exempt from disclosure pursuant to the attorney-client privilege.

11. After the hearing, and pursuant to an order of the hearing officer, the respondents submitted to the Commission (1) the records, or portions thereof, they claimed are exempt from disclosure, for in camera inspection, along with an in camera index; (2) an Affidavit of Neil Parille, dated November 16, 2021 (which has been marked as Respondents’ Exhibit 5 (after-filed)); and (3) an Affidavit of A. Campanelli, dated November 30, 2021 (which has been marked as Respondents’ Exhibit 6 (after-filed)). It is found that the in camera records consist of one page of emails.

12. Section 1-210(b)(10), G.S., provides that disclosure is not required of records of “communications privileged by the attorney-client relationship.”

13. The applicability of the exemption contained in §1-210(b)(10), G.S., is governed by established Connecticut law defining the privilege. In Maxwell v. Freedom of Information Commission, 260 Conn. 143, 149 (2002), the Supreme Court stated that §52-146r, G.S.,<sup>4</sup> which established a statutory privilege for communications between public agencies and their attorneys, merely codifies “the common-law attorney-client privilege as this court previously had defined it.” *Id.* at 149. In Shew v. Freedom of Information Commission, 245 Conn. 149, 159-159 (1998), the Supreme Court established a four part test to determine whether communications between public agencies and their attorneys are privileged: (1) the attorney must be acting in a professional capacity for the agency; (2) the communications must be made to the attorney by current employees or officials of the agency; (3) the communications must relate to the legal advice sought by the agency from the attorney and (4) the communications must be made in confidence.”

14. It is found that Neil Parille is an assistant attorney general (“AAG”) for the state of Connecticut, and that AAG Parille represented the DOC and University of Connecticut Correctional Managed Health Care (“CMHC”) in 2016 when the emails at issue in this matter were created. It is found that from 2004 until 2018, AAG Parille defended the DOC and CMHC in numerous lawsuits filed by the complainant against the DOC, its employees, and CMHC. It is found that, in 2016, the warden at a correctional facility operated by the DOC and Mary Ellen Castro, the Director of Nursing at CMCH, requested legal advice, via email, from AAG Parille, regarding the settlement agreement in one of the lawsuits. It is found that AAG Parille provided the requested legal advice, via email, to the warden and to Ms. Castro, and that he intended such legal advice to be confidential. It is found that such legal advice is contained in lines 11 and 12 of the in camera records.

---

<sup>3</sup> Although the respondents also redacted the names of DOC staff from the responsive records, the complainant stated at the hearing that he was not contesting those redactions. Therefore, such redactions will not be addressed herein.

<sup>4</sup> Section 52-146r(2), G.S., defines “confidential communications” as: all oral and written communications transmitted in confidence between a public official or employee of a public agency acting in the performance of his or her duties or within the scope of his or her employment and a government attorney relating to legal advice sought by the public agency or a public official or employee of such public agency from that attorney, and all records prepared by the government attorney in furtherance of the rendition of such legal advice. . . .

15. On the in camera index, the respondents claimed that the information redacted in lines 11 and 12 of the in camera records is exempt from disclosure pursuant to the attorney-client privilege. Based upon the foregoing and careful inspection of the in camera records, it is found that: AAG Parille was an attorney acting in his professional capacity for the DOC and CMHC at the time of the communications; the communications were between AAG Parille and then-current employees or officials of the DOC and CMHC; the communications related to legal advice requested by the DOC and CMHC; and such communications were made in confidence. No evidence was presented from which it could be found that the DOC or CMHC waived the privilege.

16. Accordingly, it is found that the information contained in lines 11 and 12 of the in camera records is exempt from disclosure pursuant to the attorney-client privilege.

17. It is therefore concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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 October 12, 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:

**ANDRES SOSA, #260589**, 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 Lori McCurdy, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission