

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Kevin Rennie,

FINAL DECISION

Complainant

against

Docket #FIC 2022-0001

Office of the Chief State's Attorney,
State of Connecticut, Division of
Criminal Justice; and State of
Connecticut, Division of Criminal Justice,

Respondents

September 14, 2022

The above-captioned matter was heard as a contested case on May 16, 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 Special Session), as amended by §1 of Public Act 22-3.

At the request of the hearing officer, the complainant submitted a copy of his records request as an after-filed exhibit, which has been marked, without objection, as Complainant's Exhibit B (after-filed).

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies with respect to their administrative functions pursuant to §1-201, G.S.
2. It is found that, by letter dated November 22, 2021, the complainant requested from the respondents a copy of all emails, including attachments, between Richard Colangelo and Kostantinos Diamantis sent and/or received between January 31, 2020 and the date of the request ("requested records").
3. It is found that, by letter dated November 23, 2021, the respondents acknowledged the request, and informed the complainant that because the requested records were electronically stored, the Department of Administrative Services ("DAS") would conduct the search for such records, which records then would be provided to and reviewed by the respondents before they were provided to him.
4. It is found that DAS conducted a search and provided the potentially responsive records to the respondents on November 30, 2021. By letter dated December 3, 2021, the

respondents informed the complainant that they had reviewed those records, and that all responsive records had been scanned into a single file, which would be emailed to the complainant.

5. It is found that the respondents encountered technical difficulties when they attempted to send the records to the complainant via email; therefore, on December 13, 2021, the complainant picked up hard copies of the records from the respondents' offices.

6. By email dated and filed January 3, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by failing to provide all requested records.

7. 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.

8. 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....

9. 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.”

10. It is found that the records, described in paragraph 2, above, relate to the respondents' administrative functions and are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

11. It is found that, at or around the same time as the request at issue herein, the complainant made an identical records request to the Office of Policy and Management (“OPM”). It is found that OPM also requested that DAS conduct a search for responsive records, and that DAS conducted such search and provided potentially responsive records to OPM for its review. It is found that OPM thereafter provided responsive records to the complainant.

12. At the hearing in this matter, the complainant argued that the respondents failed to conduct a thorough search for the requested records because he received one email, dated December 4, 2020, from OPM that he did not receive from the respondents (“December 4 email”), in response to the request, described in paragraph 2, above.

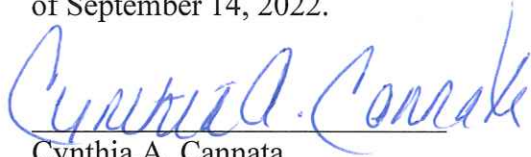
13. It is found that the December 4 email was responsive to the request, described in paragraph 2, above. It is also found that the search conducted by DAS on behalf of the respondents did not locate the December 4 email, and that therefore DAS did not provide such email to the respondents.

14. It is further found that the respondents acted diligently and without delay to provide the requested records to the complainant and that they disclosed all other responsive records to him. However, it is found that the respondents’ failure to provide the December 4 email is a technical violation of §§1-210(a) and 1-212(a), G.S.

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

1. No order is recommended.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 14, 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:

KEVIN RENNIE, 1708 Ellington Road, South Windsor, CT 06074

OFFICE OF THE CHIEF STATE'S ATTORNEY, STATE OF CONNECTICUT, DIVISION OF CRIMINAL JUSTICE; AND STATE OF CONNECTICUT, DIVISION OF CRIMINAL JUSTICE, c/o Attorney Brett J. Salafia, Office of the Chief State's Attorney, 300 Corporate Place, Rocky Hill, CT 06067



Cynthia A. Cannata
Acting Clerk of the Commission