

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Joseph Stephenson,

Complainant

against

Docket #FIC 2020-0403

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

Respondents

September 28, 2022

The above-captioned matter was heard as a contested case on October 22, 2021, 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 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 form dated July 15, 2020, the complainant requested the following records: copies of all records relating to Cheshire Correctional Institution's disciplinary hearing for report numbers CCIC-2020-06-060 and CCIC-2020-06-061, including all investigative reports, witness statements, and advisor reports.
3. By letter, dated August 10, 2020 and filed August 27, 2020¹, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the records, described in paragraph 2, above. The complainant also requested the imposition of civil penalties against the respondents.

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. Sec. 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 is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction.

4. 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.²

5. 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.

6. 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.”

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

8. It is found that, on September 21, 2021, the respondents provided to the complainant copies of records responsive to the request, described in paragraph 2, above. It is also found that the respondents redacted the first names of the Department of Correction (“DOC”) staff members from such records.

9. At the hearing in this matter, the complainant argued that the respondents failed to provide a copy of all responsive records, and further argued that the records were improperly redacted and that the records were not disclosed promptly.

10. Counselor Supervisor Campanelli, the DOC’s FOI Administrator, testified, and it is found, that a thorough search of the requested records was conducted. It is therefore found that the respondents provided all responsive records they maintain to the complainant.

11. With regard to the redactions, the respondents contended that the redacted information is exempt from disclosure pursuant to §1-210(b)(18), G.S.

² 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”.

12. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of “[r]ecords, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction...” Section 1-210(b)(18)(G), G.S., specifically provides that disclosure is not required of “[l]ogs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities.”

13. The Commission’s role in reviewing the DOC Commissioner’s safety risk determination under §1-210(b)(18), G.S., is to determine “whether the [commissioner’s] reasons were pretextual and not bona fide, or irrational.” Comm’r v. Freedom of Info. Comm’n, 46 Conn. L. Rptr. 533, 2008 WL 4926910, at *5 (Conn. Sup. Ct. Nov. 3, 2008).

14. The respondents testified, and it is found, that the DOC does not disclose the first names of staff members to inmates. The respondents also testified that disclosure of the first names of DOC staff may result in a safety risk because disclosing the full names of staff can lead to inmates threatening or harassing employees and their families outside of the prison. The respondents further testified that this policy of only disclosing the last names of DOC staff members helps to promote professionalism and order in the respondents’ correctional facilities.

15. The Commission previously has held that the first names of staff members of the DOC are exempt from disclosure pursuant to §1-210(b)(18), G.S. See e.g., Alejandro Velez v. Scott Semple, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, Docket #FIC 2017-0296 (May 23, 2018).

16. Based on the foregoing, it is found that the Commissioner of Correction had reasonable grounds to believe that disclosure of the information described in paragraph 8, above, may result in a safety risk, including the risk of harm to a person, or a disorder in a correctional institution or facility, within the meaning of §1-210(b)(18), G.S. It is further found that the reasons given are bona fide and were not pretextual or irrational.

17. Therefore, it is found that the information described in paragraph 8, above, is exempt from disclosure pursuant to §1-210(b)(18), G.S.

18. With regard to the allegation that the respondents failed to disclose the responsive records promptly, it is found that such records were provided to the complainant over thirteen months after the date of the request, described in paragraph 2, above.

19. At the hearing in this matter, the respondents conceded that, due to a clerical error, they did not provide the requested records as quickly as they should have.

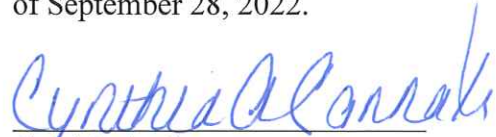
20. Accordingly, it is concluded that the respondents violated the promptness provisions in §§1-210(a) and 1-212(a), G.S.

21. After consideration of the entire record in this case, the Commission in its discretion declines to consider the imposition of civil penalties against the respondents.

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

1. Henceforth, the respondents shall strictly comply with the promptness provisions in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 28, 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:

JOSEPH STEPHENSON, #155049, Osborn CI, 335 Bilton Road, Somers, CT 06071

ANGEL QUIROS, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Jennifer Lepore, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission