

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ahmaad Lane,

Complainant

against

Docket #FIC 2021-0287

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

Respondents

April 26, 2023

The above-captioned matter was heard as a contested case on July 6, 2022, at which time the complainant and respondents appeared, 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), as amended by §1 of Public Act No. 22-3. At the time of the request and hearing in this matter, the complainant was incarcerated.

Subsequently, by order of the hearing officer, the respondents submitted after filed exhibits, which have been admitted into evidence and marked as follows:

Respondents' Exhibit 7 (after-filed): Second Copy of the March 2, 2021 FOI Request with Acknowledgement by the Respondents;

Respondents' Exhibit 8 (after-filed): Second Copy of the May 18, 2021 FOI Request with Acknowledgement by the Respondents; and

Respondents' Exhibit 9 (after-filed): Copy of the Complainant's Trust Account Statement from December 1, 2020 through June 30, 2021.

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 May 18, 2021, the complainant requested from the respondents nutritional information related to all food provided to inmates by the Nutrition and Food Services Unit of the respondent Department of Correction ("DOC"), including: invoices, inventories, menus, budgets, distributors, ingredients, and total nutritional information ("May

18th request”). In his request, the complainant informed the respondents that he was indigent and requested that the fees for copies of the requested records be waived.

3. By letter dated May 27, 2021,¹ the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with a copy of the records described in paragraph 2, above. The complainant also requested the imposition of civil penalties against the respondents.

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 section 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 the respondents acknowledged the complainant’s request and informed the complainant that it was a duplicate of a prior request he made on March 2, 2021 (“March 2nd request”). The respondents also informed the complainant that, on April 7, 2021, they sent a letter to the complainant in response to the March 2nd request informing the complainant that the

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 subject matter jurisdiction.

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”.

respondents had identified 273 pages of responsive records and requesting that the complainant pay \$68.25 for a copy of such records.

9. It is found that the respondents did not waive the fee for the copy of the records because they did not consider the complainant to be indigent.

10. Section 1-212(a)(1)(A), G.S., provides in relevant part:

[t]he fee for any copy provided in accordance with the Freedom of Information Act: ... [b]y an executive, administrative or legislative office of the state, a state agency or a department, institution, bureau, board, commission, authority or official of the state ... shall not exceed twenty-five cents per page...

11. Additionally, §1-212(d)(1), G.S., requires a public agency to waive the fee for copies of records when “[t]he person requesting the records is an indigent individual.”

12. In May v. Freedom of Information Commission, Superior Court, judicial district of New Britain, Docket No. CV-06-4011456-S (April 30, 2007), the court agreed with the Commission’s interpretation of §1-212(d)(1), G.S., as allowing each agency to set its own standard of indigence, provided the standard is objective, fair and reasonable, and applied in a nondiscriminatory manner.

13. It is found that DOC’s Administrative Directive 3.10 (Fees, Reimbursements and Donations), provides, in relevant part:

[a]n inmate shall be considered ‘indigent’ if the monetary balance in his or her inmate trust account, or any other known account, has not equaled or exceeded five dollars (\$5.00) at any time during the ninety (90) days preceding the receipt by the Department of the request for records and during the days preceding the date on which the request for records is fulfilled (up to a maximum of ninety (90) days after the date of the request)....

An inmate shall be charged twenty-five cents for each page copied....

The fee shall be waived if an inmate meets the requirements of inmate indigence as defined in this directive....

14. The Commission has previously approved the DOC’s standard of indigence as set forth in paragraph 13, above. See Noah Snyder v. Scott Semple, Commissioner State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction,

Docket #FIC 2018-0295 (April 24, 2019); Andres Sosa v. Scott Semple, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, Docket #FIC 2015-644 (June 28, 2016); Bryant Rollins v. Freedom of Information Officer, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction; Docket #FIC 2010-030 (September 22, 2010); and Bryant Rollins v. Administrator, State of Connecticut, Department of Correction, Freedom of Information Office; and State of Connecticut, Department of Correction, Docket #FIC 2009-137 (February 24, 2010).

15. It is found that the balance in the complainant's trust account equaled or exceeded \$5.00 on most days during the ninety days preceding receipt by the DOC of the requests and during the days preceding the date on which the DOC notified the complainant that responsive records were available to him.

16. Accordingly, it is found that the complainant is not indigent for purposes of §1-212(d)(1), G.S.

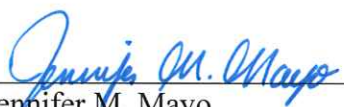
17. It is concluded, therefore, that the respondents did not violate §§1-210(a), 1-212(a), and 1-212(d)(1), G.S., by withholding the requested records from the complainant, unless he paid the appropriate fee.

18. 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 April 26, 2023.



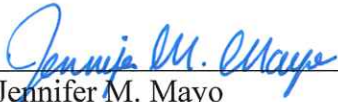
Jennifer M. Mayo
Acting Clerk of the Commission

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:

AHMAAD LANE, #220753, 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 Tracie C. Brown, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Jennifer M. Mayo
Acting Clerk of the Commission