

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Sergio Correa,

Complainant

against

Docket # FIC 2023-0004

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

Respondents

December 13, 2023

The above-captioned matter was heard as a contested case on August 9, 2023, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. See Anthony Sinchak v. Freedom of Information Commission, Docket No. CV 03-0826293, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

During the hearing in this matter, the complainant stated that he wished to submit an exhibit after the hearing. The respondents objected, and the hearing officer overruled such objection. The exhibit was received by the Commission on August 21, 2023, and has been marked as Complainant's Exhibit A (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 within the meaning of §1-200(1), G.S.
2. It is found that, by letter dated June 9, 2022, the complainant submitted a request to the Police Department, City of Hartford (hereinafter "Hartford Police Department"), for copies of certain records related to a Connecticut State Police investigation (case number 1700661493).
3. It is found that, on December 6, 2022, the Hartford Police Department forwarded records responsive to the complainant's records request described in paragraph 2, above, to the

respondents' Freedom of Information (FOI) Administrator, Counselor Supervisor ("CS") Campanelli pursuant to §1-210(c), G.S.¹

4. It is found that, by letter dated December 13, 2022, CS Campanelli informed the complainant that the respondents had received records from the Hartford Police Department responsive to the complainant's June 9, 2022 records request. It is found that, in the December 13th letter, CS Campanelli additionally informed the complainant that the Hartford Police Department also had provided a compact disc ("CD"); however, the complainant was not permitted to have such CD in his possession pursuant to §1-210(b)(18), G.S., as the complainant did not have the means to access the information on it. It is found that CS Campanelli offered to send such CD to a legal representative or family member. It is found that the complainant did not respond to CS Campanelli's offer to send the CD elsewhere.

5. By letter of complaint, dated January 4, 2023 and filed on January 9, 2023, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by withholding certain records that the Hartford Police Department sent to the respondents in response to the complainant's records request, specifically those records that contained the "[n]ames of all detectives who assisted detectives from Troop E & Troop C in a homicide investigation originating in Griswold CT."² The complaint also alleges that the Hartford Police Department identified six pages of records responsive to this request, but the respondents did not provide such records to the complainant. The complainant also requested that this Commission impose civil penalties against the respondents.

6. Section 1-200(5), G.S., provides:

"Public 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, videotaped, printed, photostated, photographed or recorded by any other method.

¹ Section 1-210(c), G.S., provides:

[w]henver a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Hospital facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Hospital facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Hospital facility.

² At the August 9, 2023 contested case hearing, the complainant withdrew his claims concerning his request for other records, including certain cellphone extractions.

7. Section 1-210(a), G.S., provides, in relevant part:

Except 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 (1) inspect such records promptly during regular office or business hours ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

8. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

9. It is concluded that the requested records, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is found that, by letter dated January 31, 2023, the respondents provided the complainant with all of the paper records they received from the Hartford Police Department in response to his records request described in paragraph 2, above. It is further found that, in the January 31st letter, the respondents informed the complainant again that they were withholding a CD provided by the Hartford Police Department, pursuant to §1-210(b)(18), G.S., because the disclosure of the CD would cause a safety and security issue if allowed in a correctional facility.

11. At the hearing in this matter, the complainant contended that he received a letter from the Hartford Police Department stating that they had provided to the respondents copies of the records described in paragraph 5, above. However, the complainant testified, and it is found, that he did not receive copies of such records from the respondents. The complainant also contended that nothing in §1-210(b)(18), G.S., permits the respondents to withhold the CD referenced in paragraphs 4 and 10, above, and that the respondents should have provided him with a means of reviewing such CD.

12. At the hearing, CS Campanelli testified, and it is found, that he provided the complainant with all of the paper records which the respondents received from the Hartford Police Department in response to the complainant's June 9th records request. It is found that the respondents only withheld the above referenced CD.

13. With respect to the paper records, it is concluded that the respondents did not violate the disclosure provisions of the FOI Act because they provided the complainant with unredacted copies of all paper records that they received from the Hartford Police Department in response to the complainant's records request described in paragraph 2, above.

14. With respect to the withheld CD, the respondents contended that, because the complainant did not reference the withheld CD in his complaint to the Commission, the Commission may not consider any claims regarding such CD. The respondents also contended that they properly withheld the CD pursuant to §1-210(b)(18), G.S., as well as pursuant to the

respondent department's Administrative Directives 6.9 and 9.5, relating to the prohibition of contraband.

15. It is found that the complaint, described in paragraph 5, above, does not specifically request a copy of the withheld CD and that no claims regarding a CD are set forth in the complaint.

16. It is concluded, however, that the complainant was not necessarily obligated to specify in his complaint the method of delivery of the records he is seeking and, to the extent that any responsive records were stored on the withheld CD, the Commission could have jurisdiction over such records.

17. Accordingly, after the hearing, the hearing officer ordered the respondents to submit to the Commission a copy of all records stored on the withheld CD for in camera inspection. On November 15, 2023, the respondents submitted to the Commission a copy of the withheld CD along with an in camera index, identifying the sole record stored on the CD as "Video of Sergio Correa interview on 12/28/17."

18. After careful in camera inspection, it is found that the withheld CD solely contains one file with a recording of a police interview of the complainant, during which no names of any detectives or police officers are mentioned; nor are any names stored on the CD itself or in the title of the file saved on the CD. Accordingly, the sole record stored on the withheld CD is wholly unrelated and non-responsive to the complainant's request for the "[n]ames of the detectives who assisted detectives from Troop E & Troop C in a homicide investigation originating in Griswold CT," which is the sole records request at issue in this case.

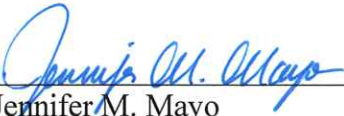
19. It is therefore concluded that the respondents did not violate the FOI Act by withholding the unrelated and non-responsive record stored on the withheld CD.³

20. Because there is no violation, no civil penalty is 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 13, 2023.



Jennifer M. Mayo
Acting Clerk of the Commission


³ In light of this conclusion, the Commission need not address the respondents' contentions concerning §1-210(b)(18), G.S., or the parties' other contentions concerning the withheld CD.

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:

SERGIO CORREA, #351915, Cheshire Correctional Institution, 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 Jennifer Lepore, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Jennifer M. Mayo
Acting Clerk of the Commission