

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jan Gawlik,

Complainant

against

Docket #FIC 2021-0345

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

Respondents

February 8, 2023

The above-captioned matter was heard as a contested case on April 7, 2022, 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). At the time of the request and hearing in this matter, the complainant was incarcerated.

Subsequent to the hearing in this matter, the complainant submitted an after-filed exhibit, consisting of 15 pages, without objection. Such exhibit has been marked as Complainant's Exhibit D (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 form dated June 1, 2021, and addressed to the respondents' Freedom of Information ("FOI") Administrator, the complainant made a request to the respondents for certain records pertaining to the "suspension of ... funeral/hospital [sic] visits and reinstatement of funeral/hospital [sic] visits" for inmates with deceased and infirm family members ("June 1st request").
3. It is found that the respondents did not receive the June 1st request, described in paragraph 2, above, from the complainant.

4. By letter of complaint, dated June 7, 2021, and filed June 28, 2021¹, the complainant appealed to this Commission, alleging that the respondents violated the FOI Act by failing to provide him with the records, described in paragraph 2, above. The complainant also requested the imposition of civil penalties.

5. It is found that, by letters dated September 7, 2021, the Commission informed the respondents of the complaint in this matter, and included copies of the complaint and the June 1st request, which the respondents received for the first time.

6. Section 1-206(b)(1), G.S., provides in relevant part: “[a]ny person denied the right to inspect or copy records under 1-210... or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission....”

7. It is found that at the time of the complaint, the respondents had not received the June 1st request and therefore had not denied the complainant’s request for records, or denied any other right under the FOI Act within the meaning of §1-206(b)(1), G.S. It is concluded therefore, under the facts of this case, that the complainant had no right to appeal under §1-206(b)(1), G.S., and that the respondents did not violate the FOI Act.

8. The Commission notes, however, that upon receiving notice of the complaint from the Commission, the respondents searched for responsive records, and on September 13, 2021, the respondents’ FOI Administrator directed that records responsive to the complainant’s June 1st request be sent to the complainant. It is found that, due to a clerical error, such records were not delivered to the complainant until April 1, 2022.

9. 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 February 8, 2023.



Cynthia A. Cannata
Acting Clerk of the Commission

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.

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:

JAN GAWLIK, #138888, 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 Jennifer Lepore, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission