STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by FINAL DECISION

Albert Farah,

Complainant

against Docket # FIC 2022-0357

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

Respondents July 26, 2023

The above-captioned matter was heard as a contested case on December 30, 2022, at which time the complainant and the respondents appeared, 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. HHD-CV03-0826293, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 between July 8, 2020 and July 21, 2022, the complainant made several requests to the respondents for certain calendars that he created and were allegedly taken by the respondents.

3. By letter of complaint received and filed August 17, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying the request described in paragraph 2, above.

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

> '[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,

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

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

> [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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a), G.S., provides in relevant part that "[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 by letter dated August 12, 2022, the respondents informed the complainant that the request described in paragraph 2, above, is a "request for [his] property" and "do[es] not fall under the [FOI Act]."

8. At the hearing, the respondents contended that the requested calendars are not "public records" subject to disclosure under the FOI Act. They contended that such calendars are the personal property of the complainant and do not relate to "the conduct of the public's business" within the meaning of §1-200(5), G.S. The respondents also testified that they searched for, but did not locate, any calendars belonging to the complainant.

9. It is found that the calendars at issue were created by the complainant for his personal use and do not relate to the conduct of the public's business.

10. It is concluded that, based on the circumstances of this case, the calendars at issue are not public records within the meaning of §1-200(5), G.S., and consequently the respondents did not violate the FOI Act by failing to comply with the complainant's request.

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 July 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:

ALBERT FARAH, #228922, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

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

Jennifer M. Mayo
Acting Clerk of the Commission

FIC 2022-0357/FD/JMM/7/26/2023