

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Travis Armstrong,

Complainant

against

Docket # FIC 2021-0289

James Rovella, Commissioner, State of
Connecticut, Department of Emergency
Services and Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,

Respondents

May 10, 2023

The above-captioned matter was heard as a contested case on May 5, 2022 and August 10, 2022, at which times the complainant and the respondents appeared, stipulated to certain facts 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), 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 in a correctional facility of the Department of Correction. For purposes of the hearing, the above-captioned matter was consolidated with Docket #FIC 2021-0347, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; Docket #FIC 2021-0403, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; and Docket #FIC 2021-0450, Travis Armstrong v. James Rovella, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection.

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 17, 2021, the complainant requested copies of the following records: “[a] complete copy of the case jacket to include all reports, diagrams, photographs, notes, and worksheets generated in connection with Lab Case #18-002946.”

3. By letter of complaint, dated May 22, 2021 and filed June 1, 2021¹, 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 a civil penalty against the respondents.

4. It is found that, by letter dated May 25, 2021, the respondents acknowledged the complainant’s request.

5. 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, videotaped, printed, photostated, photographed or recorded by any other method.²

6. 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.

7. 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.”

8. It is found that the requested records, to the extent such records exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212, G.S.

9. It is found that the respondents’ Legal Affairs Unit (“Legal Affairs”) forwarded the complainant’s request to the Division of Scientific Services (“Scientific Services”), which acts as a liaison between the respondents and the Connecticut State Forensic Science Laboratory (“Lab”). It is also found that, on June 1, 2021, Scientific Services sent responsive records back to Legal Affairs, and that Legal Affairs reviewed the responsive records and made certain

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

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”.

redactions. It is found that the respondents redacted the name and date of birth of the victim of the investigation and the complainant's State Police Identification Number and social security number.³

10. It is found that, by email dated June 30, 2021, the respondents sent the responsive records, described in paragraph 9, above, to the Department of Correction ("DOC"). It is also found that, by email dated August 5, 2021, the DOC confirmed that, on July 14, 2021, such records were disclosed to the complainant.

11. At the hearing in this matter, the complainant acknowledged that he received records responsive to his request. The complainant argued, however, that he only received one deconvolution report from the respondents and that he should have received a second deconvolution report because two DNA tests were conducted.

12. The respondents' witness, Jessica Best, who is the supervisor of the Case Management Unit within the respondents' Division of Scientific Services, testified, and it is found, that she received the complainant's request and searched for responsive records within the Lab's information management system. Best also testified, and it is found, that she identified responsive records from the Lab's DNA section, pulled those records, scanned them, and then sent the records to Legal Affairs. Best further testified that she searched in the only place where responsive records would be maintained by the Lab and that all responsive records were sent to Legal Affairs.

13. With regard to the complainant's claim that he should have received two deconvolution reports because two DNA tests were conducted, it is found that a deconvolution report is generated by the Lab after it compares DNA samples as part of a criminal investigation. However, Best testified that a DNA test will not result in a deconvolution report where no DNA comparison is made, which would explain why there is only one report.

14. The respondents second witness, Kate Ayers, an attorney with Legal Affairs, testified, and it is found, that the respondents did not withhold any records, other than the redacted portions, as described in paragraph 9, above.

15. Based on the foregoing, it is found that the respondents conducted a thorough search for the requested records described in paragraph 2, above, and disclosed all such records they located, with appropriate redactions, to the complainant.

16. It is therefore concluded that, the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged by the complainant.

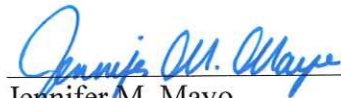
17. Because the respondents did not violate the FOI Act under the facts of this case, consideration of the complainant's request for the imposition of a civil penalty is not warranted.

³ At the hearing in this matter, the complainant did not contest the redactions made by the respondents. Therefore, such redactions will not be further addressed herein.

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 May 10, 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:

TRAVIS ARMSTRONG, #282986, Cheshire CI, 900 Highland Avenue, Cheshire, CT 06410

JAMES ROVELLA, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney Colin Milne, Dept. of Emergency Services and Public Protection, 1111 Country Club Road, Middletown, CT 06457



Jennifer M. Mayo
Acting Clerk of the Commission