

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Terrance Allen,

Complainant

against

Docket # FIC 2022-0594

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

Respondents

October 25, 2023

The above-captioned matter was heard as a contested case on July 14, 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 Docket No. CV 03-0826293, *Anthony Sinchak v. FOIC et al*, 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, by Inmate Request Form dated November 17, 2022, the complainant requested that the respondents preserve surveillance video footage from “11/16/2022 between 11:00-11:30 p.m. on the RHU [Restricted Housing Unit] housing camera area over cell #105 ...” It is found that the complainant also requested that the respondents provide him with the first and last name of the officer depicted in such footage.
3. It is found that, by letter dated November 21, 2022, the respondents acknowledged the request described in paragraph 2, above. It is found that such letter did not expressly state whether the respondents would comply with the complainant’s request to preserve the video footage described in paragraph 2, above. It is further found that the respondents denied the complainant’s request for the first and last name of the officer depicted in the video.
4. It is found that, by a separate Inmate Request Form dated November 17, 2022, the complainant requested that the respondents preserve surveillance video footage from “RHU camera over cell #105 on November 17, 2022 at 1:00 p.m.” It is found that the complainant also requested “a copy of the CN 6902 Supervisor Video Recording form” completed in connection with such request.

5. It is found that, by letter dated November 21, 2022, the respondents denied the request to preserve the video footage described in paragraph 4, above, because the request did not contain sufficient information for the respondents to identify the video footage requested. It is further found that the respondents denied the request for the form CN 6902 described in paragraph 4, above, because no such form was completed in connection with the complainant's request.

6. By letter of complaint filed December 14, 2022, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the requests described in paragraphs 2 and 4, above.

7. 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.

8. 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.

9. 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."

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

11. At the hearing in this matter, the complainant claimed that the respondents violated the FOI Act by denying his request to preserve the video footage described in paragraphs 2 and 4, above.

12. It is well-established that this Commission does not have jurisdiction over matters relating to the preservation and destruction of public records. Rather, authority over such matters rests with the Public Records Administrator, pursuant to §§1-18 and 11-8 through 11-8b, G.S., and with the Office of the State's Attorney, pursuant to §1-240, G.S. See, e.g., *Cushman v. Director, Central Communications, City of Middletown, et al.*, Docket #FIC 2019-0719, ¶22

(Nov. 18, 2020). Moreover, this Commission has concluded that the respondents' failure to preserve video footage upon request does not constitute a violation of the FOI Act. See *Jose Perez v. Rollin Cook, Commissioner, State of Connecticut, Department of Correction, et al.*, Docket #FIC 2020-0239, ¶18 (Dec. 15, 2021); *Angel Caballero v. Commissioner, State of Connecticut, Department of Correction, et al.*, Docket #FIC 2018-0475, ¶10 (April 10, 2019).¹

13. With respect to the complainant's request for the name of the officer depicted in the video footage described in paragraph 2, above, the respondents testified, and it is found, that no such record exists. It is found that the respondents do not maintain any records identifying the name(s) of any individual(s) depicted in the video footage requested by the complainant.

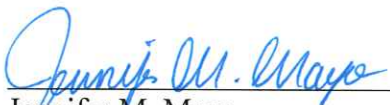
14. With respect to the complainant's request for a copy of form CN 6902 described in paragraph 4, above, it is found that no such record exists, as the respondents did not complete such form in connection with the complainant's request.

15. Based on the foregoing, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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 October 25, 2023.


Jennifer M. Mayo
Acting Clerk of the Commission

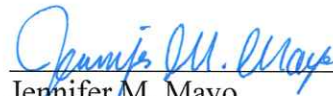
¹ Although the FOI Act does not require the respondents to preserve video footage upon request, the respondents testified that they preserved the video footage described in paragraph 2, above, as requested by the complainant. The respondents testified that they did not preserve the footage described in paragraph 4, above, because the request did not include certain information that they needed to identify the footage to be preserved, and the complainant did not provide such information in response to the respondents' November 21, 2022 letter, described in paragraph 5, above.

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:

TERRANCE ALLEN, #398754, Corrigan-Radgowski Correctional Center, 986 Norwich-New London TPKE, Uncasville, CT 06382

**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