

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by  
Earl Bradley,

Complainant

against

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

Respondents

FINAL DECISION

Docket # FIC 2023-0512

July 10, 2024

The above-captioned matter was heard as a contested case on May 10, 2024, 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. CV03-0826293, *Anthony Sinchak v. FOIC et al.*, Superior Court, J.D. of 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. By letter of complaint filed October 10, 2023, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to respond to his request for certain records related to an alleged incident that occurred on November 12, 2019 (“Incident”) at Corrigan Correctional Center (“Corrigan”).

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

“[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.

4. 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 (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.

5. 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.”

6. It is concluded that the records requested by the complainant, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-210(a) and 1-212(a), G.S.

7. It is found that on or around July 14, 2022, the complainant submitted an Inmate Request Form (“2022 Request”) to the respondents’ FOI Liaison at Cheshire Correctional Institution (“Cheshire”), requesting that the respondents either provide him with copies of the following records related to the Incident, or confirm that such records do not exist:

- a. CN 6901, Contraband/Physical Evidence Tag and Chain of Custody
- b. CN 6902, Supervisor Video Recording Review
- c. CN 6501, Use of Force Report
- d. CN 4702, Records Disposal Inventory Form

8. It is found that on or around July 19, 2022, the respondents acknowledged the 2022 Request and notified the complainant that the request had been forwarded to Corrigan.

9. It is found that as of September 7, 2023, the complainant had not received a response to the 2022 Request, other than the acknowledgement described in paragraph 8, above.

10. It is found that on or around September 7, 2023, the complainant submitted the request at issue to the FOI Liaison at Cheshire (“2023 Request”), in which he renewed the 2022 Request. It is further found that the 2023 Request did not include a copy of the 2022 Request. Rather, it is found that in the 2023 Request, the complainant notified the respondents that “the [2022 Request], to which I now seek the response, is a matter of record – but upon request I will submit a copy.”

11. It is found that on or around September 11, 2023, the respondents acknowledged the 2023 Request, and notified the complainant that the request had been forwarded to Corrigan.

12. It is found that as of the date of the complaint, the respondents had not provided the complainant with a response to his 2023 Request, other than the acknowledgment described in paragraph 11, above.

13. It is found that at the time the FOI Liaison at Corrigan received the 2023 Request, the Liaison did not have a copy of the 2022 Request. It is further found that after receiving the complaint, the respondents conducted a thorough search for the forms described in paragraph 7, above. It is found that no such forms were completed in connection with the Incident and, therefore, that the respondents do not maintain any records responsive to the complainant's request.

14. Accordingly, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by failing to comply with the complainant's request.

15. At the hearing, the complainant claimed that even if the respondents did not maintain any records responsive to his request, the respondents nevertheless violated the FOI Act by failing to notify him of that fact in writing. The complainant further requested that the Commission impose a civil penalty against the respondents based on their failure to notify him in writing that they did not maintain any records responsive to his request.

16. In several previous cases, however, the Commission has concluded that "the FOI Act does not require a public agency to inform a requester in writing that there are no responsive records." *Torres v. Ellis, et al.*, Docket #FIC 2011-104, ¶14 (Jan. 11, 2012). See also *Effros v. First Selectman, et al.*, Docket #FIC 2011-294, ¶13 (Feb. 8, 2012); *Torres v. Ellis, et al.*, Docket #FIC 2011-220, ¶¶9-11 (Feb. 22, 2012); *Smith v. Trinks, et al.*, Docket #FIC 2008-776, ¶¶10-12 (June 10, 2009).

17. Accordingly, it is concluded that the respondents did not violate the FOI Act by failing to notify the complainant in writing that they did not maintain any records responsive to his request.<sup>1</sup>

18. Because the Commission concludes that the respondents did not violate the FOI Act, there is no basis to consider the imposition of a civil penalty in this case.

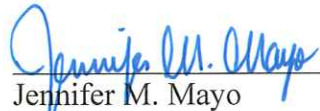
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The complaint is hereby dismissed.

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<sup>1</sup> The Commission notes that while the FOI Act does not require public agencies to inform requesters in writing that they do not maintain any responsive records, as a matter of courtesy and practicality, public agencies may be better served by providing such written notification. In the present case, the complainant testified that he was aware that the respondents may not have the records he requested, but that he wanted a written record of that fact. Thus, providing the complainant with the written notification he requested may well have obviated the need for the contested case hearing in this matter.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 10, 2024.

A handwritten signature in blue ink, appearing to read "Jennifer M. Mayo", is written over a horizontal line.

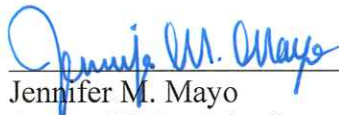
Jennifer M. Mayo  
Acting Clerk of the Commission

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:

**EARL BRADLEY, #415266**, Cheshire Correctional Inst., 900 Highland Avenue, Cheshire, CT 06410

**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