

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Andres Sosa,

Complainant

against

Docket # FIC 2024-0221

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

Respondents

April 9, 2025

The above-captioned matter was heard as a contested case on September 17, 2024, at which time the complainant and 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. CV 03-0826293, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

On October 16, 2024, in response to an order of the hearing officer, the respondents submitted a declaration, which has been marked as Respondents' After-Filed Exhibit 4 – For Identification Only: Declaration of A. Kerwin and Explanatory Letter (two pages).¹

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 letter dated March 22, 2024, the complainant requested that the respondents provide him with copies of the following:

The Name(s) of all and every single programs being provide [sic] here at #125- Cheshire Corr Insit [sic] that is to include any pilot program being conduct [sic] at this same location, Volunteer'(s) who are providing and or assisting with any such program, involve [sic] with any such program(s), Foundations, and or Donor(s) who funds any of the name's program'(s) for the Perpetual Support or

¹ As noted by the complainant in his October 22, 2024 objection, the respondents' after-filed submission consists of an unnotarized declaration, rather than a sworn witness affidavit as ordered by the hearing officer in her October 1, 2024 Notice of Order to Submit Affidavit. The hearing officer has marked such after-filed exhibit for identification purposes only.

Endowment., e.g., Truth Program, CT VIP, WESLEYAN UNIVERSITY, Creating Writing, AVP, etcetera, etcetera.

3. It is found that, by letter dated April 3, 2024, the respondents acknowledged the complainant's request described in paragraph 2, above.

4. By letter of complaint dated April 10, 2024, and received and filed on April 18, 2024, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide records responsive to the request described in paragraph 2, above. The complainant also requested the imposition of a civil penalty against the respondents.

5. Section 1-200(5), G.S., provides the following in relevant part:

"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, [...] whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides the following 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 ... (3) receive a copy of such records in accordance with section 1-212.

7. 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."

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

9. It is found that the FOI administrator for the Department of Correction ("DOC") coordinated the search for records responsive to the request described in paragraph 2, above, among multiple agency-level offices of the DOC and at Cheshire Correctional Institution ("Cheshire CI").

10. It is found that, on July 29, 2024, the respondents disclosed some responsive records to the complainant, who signed a boilerplate DOC form acknowledging that he had "received or inspected" responsive records. It is found that, in the right margin of such form, the complainant handwrote a statement representing that a portion of such request remained unfulfilled.

11. It is found that the respondents provided the complainant with a list of the programs offered to the incarcerated population at Cheshire CI. Such records, which the complainant testified are responsive to his request, are not at issue and shall not be further addressed herein.

12. It is found that between July 29, 2024 and September 2024 the FOI liaison at Cheshire CI, where the plaintiff is incarcerated, followed up with the complainant to inquire about which responsive records the complainant believed he was missing. It is found that the complainant indicated that he was missing records regarding who funded the TRUE Unit programming for incarcerated individuals.

13. It is found that the respondents' FOI administrator thereafter performed a search for any outstanding responsive records relating to foundations or donors that funded the TRUE Unit programming.

14. It is found that the respondents' FOI administrator contacted the following departments and individuals to get a better understanding of whether they possessed records regarding the TRUE Unit and to solicit suggestions as to other locations where she should search: the DOC fiscal unit, Cheshire CI administration, the DOC legislative liaison, and the DOC programming unit. Based upon the FOI administrator's credible testimony, it is found that these DOC departments and employees possessed no responsive records relating to foundations or donors that funded the TRUE Unit programming.

15. It is found that the respondents conducted a diligent and thorough search for records responsive to the complainant's request for documentation about foundations and donors that fund the programs described in paragraph 2, above.

16. Regarding the complainant's request for records relating to names of volunteers involved or assisting with the programs described in paragraph 2, above, the complainant testified at the contested case hearing that he was still missing those records.

17. It is found that the complainant was dissatisfied with the respondents' search for records responsive to his request for volunteers described in paragraph 2, above, and contended that additional responsive records likely exist, given that volunteers must obtain security clearance before entering a correctional institution. He named the respondents' central office or security division as offices that possibly maintained responsive records containing such information.

18. It is found that the volunteers who participate in programming for the incarcerated population frequently change, and that every correctional institution facility does not have the same volunteers for such programming. It is further found that when volunteers come into a facility, they must stop at the front of the facility, show identification, and sign into the facility; however, volunteers may not necessarily indicate on the sign-in sheet the name of the program for which they are appearing.

19. The respondents' FOI administrator testified that the officer stationed at the front of the facility "possibly" would have a piece of paper stating, "this day, this time, this staff might be coming in" but that she is not aware of a requirement that the officer keep that piece of paper. She also testified that, alternatively, the officer at the lobby desk "may" call the program unit to confirm whether an arriving volunteer has permission to enter or must be escorted into the facility.

20. Additionally, the respondents' FOI administrator testified that, regarding programming facilitated by non-DOC staff, any information about volunteers coming into the correctional facilities "should" be within the contracts between the respondents and the non-DOC entity facilitating such programming.

21. It is found that the respondents provided the complainant with the programming contracts between the respondents and non-DOC facilitating entities.²

22. It is found that the FOI administrator's testimony at the contested case hearing on the existence of records responsive to the complainant's request for program volunteers, described in paragraphs 19 and 20, above, was largely speculative and did not provide evidence that a search for such records had been conducted by the respondents.

23. Therefore, it is found that the respondents did not perform a diligent and thorough search for the records requested by the complainant relating to volunteers providing or assisting with programming, as described in paragraph 2, above.

24. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide all records responsive to the request regarding program volunteers, described in paragraph 2, above.

25. Notwithstanding paragraph 24, above, the Commission in its discretion declines to consider the imposition of a civil penalty on the respondents as requested by the complainant.

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

1. Within thirty days of the date of the Notice of Final Decision, the respondents shall perform a diligent and thorough search of departments within DOC central offices and Cheshire CI, including the offices of any security units or divisions at such locations, for records responsive to the request described in paragraph 2, above, regarding program volunteers.

2. Within thirty days after conducting the supplemental search described in paragraph 1 of this order, above, the respondents shall: (i) provide copies of any responsive records to the complainant, free of charge; and (ii) provide the complainant and the Commission with an affidavit, attested to by a person with the requisite knowledge, identifying what, if any, records

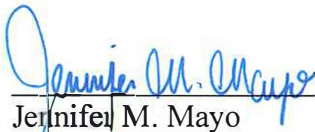
² The respondents provided the complainant with the following programming agreements to which they are a party: a contract with Wesleyan University for undergraduate courses to be offered to the incarcerated population at Cheshire and York Correctional Institutions, an executed amended contract with Wesleyan University, and a contract with ATV [Alternative To Violence]: Connecticut Chapter.

or portions thereof were withheld and the basis for withholding such records or portions thereof. If no responsive records are located, the respondents shall so state in the affidavit.

3. If the respondents fail to comply with any timelines set forth in the paragraphs above, or if the complainant takes issue with any record, or portion thereof, withheld by the respondents, the complainant may file an appeal with the Commission and such appeal will be afforded expedited treatment.

4. Henceforth, the respondents shall strictly comply with the disclosure requirements in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of April 9, 2025.

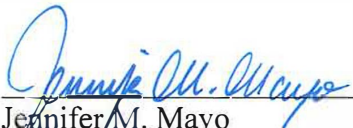

Jennifer M. Mayo
Acting Clerk of the Commission

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:

ANDRES SOSA, #260589, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410-1668

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



Jennifer M. Mayo
Acting Clerk of the Commission