

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Alexander Wood and the Manchester
Journal Inquirer,

Complainants

against

Docket #FIC 2016-0795

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

Respondents

June 14, 2017

The above-captioned matter was heard as a contested case on February 6, 2017, at which time the complainants, the Department of Correction (“DOC”) respondents and Jason Meacham appeared. Mr. Meacham moved to intervene as a party, and the hearing officer granted such motion. The case caption has been amended accordingly. Thereafter, the complainants and all respondents presented testimony, exhibits and argument on the complaint. A second day of hearing was held on April 27, 2017, at which hearing the complainants and the DOC respondents appeared, and presented additional testimony and argument on the complaint.

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 email dated October 21, 2016, the complainants requested from the DOC respondents “the opportunity to inspect all records in the possession of the [DOC] concerning complaints or disciplinary actions against a correctional officer named Jason Meacham.”
3. It is found that, upon receipt of the request, a human resources assistant with the DOC (“human resources assistant”) searched for, and located, Mr. Meacham’s personnel file, and reviewed the contents of such file. It is found that, after determining that Mr. Meacham likely would not want the information contained in the requested records disclosed, the human resources assistant notified Mr. Meacham of the request, described in paragraph 2, above, by letter dated October 31, 2016. On November 3, 2016, Mr. Meacham objected, in writing, to disclosure of the records.

4. By email dated November 8, 2016, the respondents informed the complainants that Mr. Meacham objected to disclosure of the requested records, and on that ground, denied the request.

5. By email dated November 8, 2016, the complainants appealed to this Commission, alleging that the DOC respondents violated the Freedom of Information (“FOI”) Act by denying them the opportunity to inspect the records, described in paragraph 2, above. By motion dated February 1, 2017, the complainants also requested that the Commission conduct an in camera inspection of the responsive records.

6. 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, printed, photostated, photographed or recorded by any other method.

7. 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 or . . . (3) receive a copy in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by the subsection shall be void.

8. 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.”

9. It is found that the requested records are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is found that the respondents maintain two pages of records responsive to the request, described in paragraph 2, above. At the hearing in this matter, the hearing officer granted the complainants’ motion for in camera inspection and ordered the respondents to

provide such records to the Commission on February 8, 2017. The respondents submitted the in camera records, consisting of two letters, to the Commission, on February 8, 2017.

11. Section 1-210(b)(2), G.S., provides that disclosure is not required of “[p]ersonnel, medical and similar files the disclosure of which would constitute an invasion of personal privacy.”

12. Section 1-214(b), G.S., provides, in relevant part, that:

[w]henever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files and the agency reasonably believes that the disclosure of such records would legally constitute an invasion of privacy, the agency shall immediately notify in writing (1) each employee concerned, provided such notice shall not be required to be in writing where impractical due to the large number of employees concerned and (2) the collective bargaining representative, if any, of each employee concerned. Nothing herein shall require an agency to withhold from disclosure the contents of personnel or medical files and similar files when it does not reasonably believe that such disclosure would legally constitute an invasion of personal privacy. (Emphasis added).

13. “When a claim for exemption is based upon §1-210(b)(2), the person claiming the exemption must meet a twofold burden of proof. First, the person claiming the exemption must establish that the files are personnel, medical or similar files. Second, the person claiming the exemption...must also prove that the disclosure of the files would constitute an invasion of personal privacy.” Rocque v. Freedom of Information Comm’n, supra, at 661, citing Perkins v. Freedom of Information Comm’n, 228 Conn. 158 (1993). In determining whether disclosure would constitute an invasion of personal privacy, the claimant must establish both of two elements: first, that the information sought does not pertain to legitimate matters of public concern, and second, that disclosure of such information would be highly offensive to a reasonable person.

14. After careful inspection of the records, described in paragraph 2, above, it is found that such records are “personnel files” of Jason Meacham.

15. At the hearing, Mr. Meacham offered no testimony or other evidence to support his assertion that disclosure of the requested records would constitute an invasion of his personal privacy. In fact, Mr. Meacham testified only that he was upset that the complainant Manchester Journal Inquirer included his home address in a story it published concerning him.

16. After careful inspection of the in camera records, it is concluded that such records pertain to legitimate matters of public concern, and that disclosure of such information would not be highly offensive to a reasonable person.

17. Accordingly, it is concluded that disclosure of the in camera records would not constitute an invasion of Mr. Meacham's personal privacy, and therefore are not exempt from disclosure pursuant to §1-210(b)(2), G.S.

18. With regard to the notification to Mr. Meacham, pursuant to §1-214, G.S., it is found that the human resources assistant was unfamiliar with the legal standard for determining whether disclosure of information would constitute an invasion of privacy, and therefore did not employ that standard in determining whether to notify Mr. Meacham of the request, described in paragraph 2, above. Rather, it is found that the human resources assistant considered whether Mr. Meacham, or she herself, if she were in his place, would want such information disclosed. Based upon these findings, and the conclusion set forth in paragraph 17, above, it is found that the DOC respondents did not have a reasonable belief that disclosure of the information at issue would constitute an invasion of Mr. Meacham's privacy, and therefore should have disclosed the requested records without notifying Mr. Meacham of the request.

19. At the hearing in this matter, the DOC respondents, while acknowledging that they lacked standing to assert Mr. Meacham's privacy rights, argued that there was a heightened security risk in disclosing records pertaining to Mr. Meacham because of his position as a correctional officer. For example, counsel for the DOC respondents argued, if the records showed a particular route that a correctional officer took to work each day, such records should be exempt from disclosure to the extent they indicate such route. The DOC respondents cited no statutory or other legal basis for such claim and it is found to be without merit, based on the facts of this particular case.

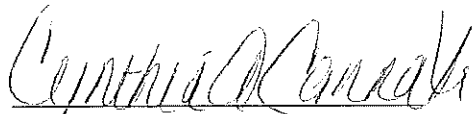
20. The complainants indicated at the hearing that they are not seeking Mr. Meacham's home address, and stated that, to the extent such home address is contained in the requested records, they would not contest the redaction of such information.

21. Based upon the foregoing, it is concluded that the respondents violated §§1-210(a), 1-212(a), and 1-214, G.S.

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

1. Forthwith, the respondents shall provide a copy of the in camera records to the complainants, free of charge.
2. In complying with paragraph 1 of the order, above, the respondents may redact Mr. Meacham's home address, wherever it appears in the in camera records.
3. Henceforth, the respondents shall strictly comply with §§1-210(a), 1-212(a), and 1-214, G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 14, 2017.

A handwritten signature in cursive script, appearing to read "Cynthia A. Cannata".

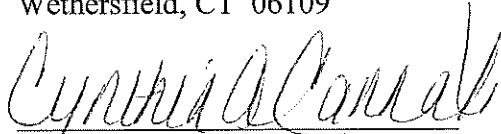
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Alexander Wood and the Manchester
Journal Inquirer
306 Progress Drive.
P.O. Box 510
Manchester, CT 06045

Commissioner, State of Connecticut, Department of Correction;
State of Connecticut, Department of Correction, and Jason Meacham
c/o James Neil, Esq.
Jason Meacham
24 Wolcott Hill Road
Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission