

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ralph McIllelan,

Complainant

Docket # FIC 2016-0784

against

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

Respondents

September 13, 2017

The above-captioned matter was heard as a contested case on August 1, 2017, at which time the complainant and 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 letter dated October 9, 2016, the complainant made a request to the respondents for the following:

[a] Any and all documentation used to convict me of Disciplinary violation report # MWCI1607069 that took place on 7/15/16 [;]

[b] Notwithstanding, incident reports, supplemental reports of said incident, report # MWCI1607069 [; and]

[c] Also, to preserve a copy or transcribe a copy of taped phone calls used to form a synopsis to use as evidence in Disciplinary violation report # MWCI1607069 [hereinafter the “telephone calls”].

3. It is found that, by letter dated October 25, 2016, the respondents acknowledged the complainant's October 9, 2016 request, described in paragraph 2, above.

4. By letter of complaint received on November 4, 2016, the complainant appealed to this Commission, alleging that the respondents failed to comply with his October 9, 2016 request, described in paragraph 2, above, in violation of the Freedom of Information ("FOI") Act. At the hearing, the complainant stated that the only portion of his October 9<sup>th</sup> request that remained outstanding was his request for the preservation or transcription of the telephone calls, described in paragraph 2[c], above. Accordingly, the allegations concerning the requests described in paragraphs 2[a] and 2[b], above, are no longer at issue and will not be further addressed herein.

5. Section 1-200(5), G.S., defines "public records or files" as:

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.

6. Section 1-210(a), G.S., provides in relevant part that:

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 . . . (3) receive a copy of such records in accordance with section 1-212.

7. 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."

8. At the hearing, the respondents testified that the Department of Correction transcribed the telephone calls, described in paragraph 2[c], above, and that a copy of the transcription was preserved. They contended, however, that the complainant's request, described in paragraph 2[c], above, was not a request for copies of the telephone calls or a transcription. Rather, it was a request to preserve or transcribe the telephone calls. The complainant would have to make a separate request for a copy of the transcription.

9. It is found that the complainant has not alleged a violation of the FOI Act with respect to the request described in paragraph 2[c], above. Consequently, 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 hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 13, 2017.



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:

**RALPH MCLLELAN, #328364**, Brooklyn CI, 59 Hartford Road, Brooklyn, CT 06234

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Nancy Kase O'Brasky, State of Connecticut, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission