

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Jose Ayuso,

Complainant,

Docket # FIC 2017-0553

against

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

Respondents

July 25, 2018

The above-captioned matter was heard as a contested case on July 5, 2018, 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 August 27, 2017, the complainant made a request to the respondents for log book entries of all cancellations of the wellness program for the years 2014, 2015, and 2016. It is further found that such entries are contained in the respondents' log book of inmate and staff movements within the correctional facility.
3. It is found that, by letter dated September 12, 2017, the respondents denied the request described in paragraph 2, above, citing the exemption at §1-210(b)(18)(G), G.S.
4. By letter dated September 11, 2017, and filed on September 13, 2017, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records, described in

paragraph 2, above. The complainant also requested the imposition of civil penalties against the respondents.

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 “any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the records requested by the complainant are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. The respondents contend that §1-210(b)(18)(G), G.S., provides a basis for withholding the requested records, when disclosure would pose a safety and security risk.

10. Section 1-210(b)(18), G.S., exempts from mandatory disclosure:

Records, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution....Such records shall include, but are not limited to:...

(G) Logs or other documents that contain information on the movement or assignment of

inmates or staff at correctional institutions or facilities....

11. It is found that the information contained in the records described in paragraph 2, above, details the location and movement of inmates and staff within the MacDougall-Walker Correctional Facility. It is further found that the respondent Commissioner has reasonable grounds to believe that disclosure of such information may result in a safety risk. Accordingly, it is concluded that such records are permissibly exempt from disclosure pursuant to §1-210(b)(18)(G), G.S. See also Docket # FIC 2007-317; James Baker v. Warden, State of Connecticut, Department of Correction, Osborn Correctional Institution (disclosure of logs containing emergency information that would reveal how the respondent responds to emergency situations found to be exempt from disclosure pursuant to §1-210(b)(18), G.S.); Docket # FIC 2008-507; Robin Elliott v. Commissioner, State of Connecticut, Department of Correction; Warden, State of Connecticut, Department of Correction, Corrigan-Radgowski Correctional Institution; and State of Connecticut, Department of Correction (emergency logs of the location of security personnel found to be permissibly exempt from disclosure pursuant to §1-210(b)(18)(G), G.S.); Docket #FIC 2010-061; Robin Elliott v. Warden, State of Connecticut, Department of Correction, Northern Correctional Institution; and State of Connecticut, Department of Correction (information regarding the location and relocation of inmates and staff, and emergency logs revealing the location of security personnel were found to be exempt from disclosure pursuant to §1-210(b)(18)(G), G.S.).

12. It is therefore concluded that the respondents did not violate the FOI Act as alleged by the complainant in his complaint. Accordingly, it is unnecessary to address the complainant's request for civil penalties in this matter.

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 July 25, 2018.



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:

JOSE AYUSO, #156239, Corrigan-Radgowski Correctional Center, 986 Norwich-New London Turnpike, Uncasville, CT 06382

SCOTT SEMPLE, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Nancy Canney, Esq., Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission