

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Christopher Shuckra and Edwin Aponte,

Complainants

against

Docket #FIC 2017-0205

James Wardwell, Chief, Police Department,  
City of New Britain; and Police Department,  
City of New Britain,

Respondents

March 28, 2018

The above-captioned matter was scheduled to be heard as a contested case on August 28, 2017 at 9:30 a.m. and on December 15, 2017 at 9:30 a.m. The hearing in this matter was bifurcated at the request of the Department of Correction which did not want the complainants, both of whom were incarcerated at the time of the August 28, 2017 hearing, to appear at the hearing via teleconference claiming that such would pose a safety and security risk. At the August 28, 2017 contested case hearing in this matter, the complainant, Christopher Shuckra, the respondents and the Commissioner, State of Connecticut, Department of Correction and the State of Connecticut, Department of Correction appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. At the December 15, 2017 contested case hearing the respondents and the Commissioner, State of Connecticut, Department of Correction and the State of Connecticut, Department of Correction appeared, however the complainant, Edwin Aponte, failed to appear.

The complainant, Christopher Shuckra, 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.).

The complainant, Edwin Aponte, was incarcerated at the time the complaint was filed, but was released prior to December 15, 2017 and did not provide a new address to the Commission. Consequently, notice of the December 15, 2017 hearing was mailed to complainant Aponte's last known address.

By letter received and filed on January 16, 2018, Mr. Shuckra moved for a transcription of the proceedings. The motion is hereby denied.

By that same letter, Mr. Shuckra also moved that the hearing officer in this matter be ordered to comply with the “stipulated judgement in Sinchak v. Freedom of Information Commission and Waterbury Police Department, J.D. of Hartford CV 03-0826293 (Sheldon, J.), and allow the Complainant Shuckra to participate in all proceedings before the Commission in this matter.” Pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction reflected in 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.), Mr. Shuckra was allowed to participate meaningfully in the contested case proceedings of this Commission in this matter within the meaning of that memorandum. Furthermore, the bifurcated hearings comported with paragraph 3 of that memorandum of understanding which provides, in part, that “[t]he Commissioner shall make appropriate arrangements for an inmate under her jurisdiction to have access to a telephone during the entire proceedings of a contested case involving that inmate, ***subject to necessary security actions by her employees and agents...***”[Emphasis added] Consequently, Mr. Shuckra’s motion in this regard is also denied.

Finally, at the December 15, 2017 hearing, the respondent Commissioner, State of Connecticut, Department of Correction and the State of Connecticut, Department of Correction moved to have the complaint against them dismissed and to be removed from the case caption. Said motion is hereby granted.

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 6, 2017, the complainants made a request to the respondents for a copy of 8 itemized categories of records, all of which relate to the complainant Mr. Aponte.
3. By letter dated March 20, 2017, and filed on April 7, 2017, the complainants appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with their records request. The complainants also requested the imposition of a civil penalty against the respondents.
4. Section 1-200(5), G.S., provides:

"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, 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.

5. 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

6. 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.”

7. It is found 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), 1-210(a) and 1-212(a), G.S.

8. It is found that the complainant, Mr. Shuckra, met several times and corresponded heavily via email with the respondents at the time when he was not incarcerated. It is found that by the time of the August 28, 2017 hearing in this matter, Mr. Shuckra had been provided with many documents responsive to his request. It is also found that during the aforementioned meetings, Mr. Shuckra expanded his request and asked for additional records, with which records he was also provided.

9. At the August 28, 2017 hearing in this matter, Mr. Shuckra and the respondents reached an agreement on the record wherein the respondents pledged that they would provide certain records responsive to his original records request via email to Mr. Schuckra’s personal email address and Mr. Schuckra pledged that he would thereafter withdraw his complaint. It is found that the records were identified as items 2 through 5 of the complainants’ March 6, 2017 request which items are as follows:

- a. a copy of the police incident reports in IR# 16-10244, IR# 16-6566, IR# 16-6077, IR# 16-9194, IR# 16-16924;
- b. a copy of any and all internal investigation reports related to Officer Matthew P. Sulek (#474); any and all citizen complaints against Officer Sulek; and any record of any discipline of Officer Sulek;

- c. a copy of any internal written progress reports or memoranda relating to Police Officer Matthew P. Sulek after he was placed on early intervention by chief James Wardwell on August 19, 2016; and
- d. a copy of the internal investigation IA16-20 and the final report issued in connection with that investigation.

10. It is found that at the December 15, 2017 hearing, the respondents' witness testified that he personally emailed the records to Mr. Shuckra's personal email address but that because the Department of Correction does not permit its inmates access to their personal email accounts, Mr. Shuckra was not able to confirm that the records had been provided.

11. It is found that the testimony from the respondents' witness was credible and it is further found that the respondents have complied with the complainants' March 6, 2017 request and with their obligations under the agreement.

12. Consequently, it is concluded that the respondents have not violated the FOI Act as alleged by the complainants and there is no basis to consider their request for the issuance of a civil penalty against the respondents.

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 March 28, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

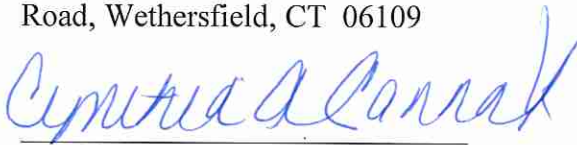
PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**CHRISTOPHER SHUCKRA, #213510**, Robinson CI, 285 Shaker Road, Enfield, CT 06082; **AND EDWIN APONTE**, Willard-Cybulski Correctional Institution, 391 Shaker Road, Enfield, CT 06082

**JAMES WARDWELL, CHIEF, POLICE DEPARTMENT, CITY OF NEW BRITAIN; AND POLICE DEPARTMENT, CITY OF NEW BRITAIN**, c/o Attorney Joseph Skelly, Jr., Corporation Counsel, City of New Britain, 27 West Main Street, New Britain, CT 06051

Cc: Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, c/o Attorney Nicole Anker, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission