

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Kacey Lewis,

Complainant

against

Docket #FIC 2017-0440

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

Respondents

May 23, 2018

The above-captioned matter was heard as a contested case on January 19, 2018, at which time the complainant and the 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, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

On February 5, 2018, the complainant filed two-after filed exhibits, to which the respondents objected, in part. The after-filed exhibits have been marked as follows: Complainant's Exhibit B: Letter, dated July 21, 2017, from CCS Washington to Complainant; and Complainant's Exhibit C (ID only): Handwritten Page titled "Mail & Communications Log Notes & Comments".

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 July 12, 2017, the complainant made a request to the respondents "to review and inspect the following: documents identifiable as correspondence, including electronic mail sent and/or received by: Monica Vazquez, Inmate Population Mangement [sic], Dep't of Correction, 1153 East Street South, Suffield, CT 06080, between January 1, 2017 – thru – July 11, 2017, in relation to: Kacey Lewis, inmate #165480" ("July 12th request").

3. It is found that, by letter dated July 21, 2017, Counselor Supervisor (“CCS”) Washington, the respondents’ FOI Administrator, acknowledged the request described in paragraph 2, above.

4. By letter of complaint dated July 25, 2017, and filed July 27, 2017, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to promptly provide the records that he requested in his July 12th request.

5. 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.

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, (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.

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. 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. It is found that, after receiving the July 12th request, CCS Washington searched for all requested records. It is found that such search included a search of the commissioner’s and warden’s areas, and an inquiry to Ms. Vasquez for records responsive to the July 12th request. It is also found that CCS Washington submitted a request to the respondents’ IT department to conduct a search for any responsive emails. It is found that the respondents located approximately ten pages of emails responsive to the July 12th request. It is also found that the respondents did not locate any additional responsive records.

10. It is found that CCS Washington reviewed and mailed the emails, with redactions, to Correctional Officer (“CO”) Moore, the FOI Liaison at MacDougall-Walker Correctional Institution at that time, and requested that he deliver such emails to the complainant.

11. It is found that CO Moore attempted, on September 15, 2017, to deliver the responsive emails to the complainant, but the complainant refused to accept such emails. It is found that, at the time of the attempted delivery, the complainant did not inspect the emails nor did he provide an explanation for his refusal. In addition, it is found that, contrary to the complainant’s testimony at the hearing, the provision of such emails was not contingent on the complainant’s withdrawal of his complaint in this matter.

12. With respect to the issue of promptness, it is found that CCS Washington oversees matters concerning freedom of information for the DOC. He is responsible for handling all records requests submitted directly to the DOC, and for reviewing all documents mailed to inmates from outside agencies. It is also found that CCS Washington’s other responsibilities include supervising the DOC’s FOI liaisons at the various correctional facilities, and attending and testifying regularly at FOI hearings and meetings before the Commission.

13. It is further found, as described in paragraph 11, above, that the respondents attempted to deliver, but the complainant refused to accept, the responsive records. It is found that the respondents provided the complainant with prompt access.

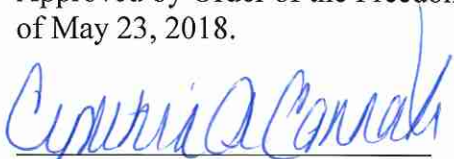
14. It is concluded that the respondents did not violate the FOI Act, as alleged in the complaint.

15. The Commission notes that, at the hearing, the complainant repeatedly interrupted the Hearing Officer, respondents’ attorney and witnesses, and refused to follow the directions of the Hearing Officer.

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.
2. The complainant is admonished for his conduct during the hearing, including the conduct described in paragraph 15 of the findings, above.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 23, 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:

KACEY LEWIS, #165480, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION;
AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Nicole Anker, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission