

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Raul Zayas,

Complainant

against

Docket #FIC 2018-0122

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of Connecticut,
Department of Emergency Services and
Public Protection,

Respondents

October 24, 2018

The above-captioned matter was heard as a contested case on June 22, 2018, at which time the complainant and the respondents appeared 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.).

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 February 22, 2018, the complainant made a request to the respondents for a copy of all records of the police investigation that led to his arrest (the "requested records"). It is found that the complainant requested a waiver of the copying fee for the requested records on the ground that he is indigent.
3. By letter filed March 7, 2018, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in paragraph 2, above.
4. 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 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:

[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 of such records in accordance with section 1-212....

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

7. It is found that, by letter dated April 13, 2018, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that the request would be processed in accordance with the provisions of the Freedom of Information (“FOI”) Act and any other applicable provision of law.

8. It is found that, by letter dated June 5, 2018, the respondents requested from the complainant prepayment of the \$16.00 search/copy fee, and stated that upon receipt of payment, they would commence the search. The respondents also informed the complainant that he is not entitled to a waiver of the search fee authorized by §29-10b, G.S.

9. It is found that, as of the date of the hearing in this matter, the complainant had not paid the 16.00 search/copy fee. It is also found that, because the complainant had not paid the fee, the respondents had not provided a copy of the requested records to him.

10. Section 29-10b, G.S., provides:

The Commissioner of Public Safety shall charge the following fees for the item or service indicated:

(1) Each search of the record files made pursuant to a request for a copy of an accident or investigative report which results in no document being produced, sixteen dollars.

(2) Each copy of an accident or investigative report, sixteen dollars.

11. It is found that the requested records are “accident or investigative report[s],” within the meaning of §29-10b, G.S.

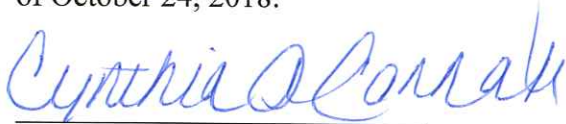
12. In Edmondo Mendieta v. Dora B. Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection, Docket #FIC 2015-628 (June 9, 2016)¹, the Commission concluded that waiver of the statutory fee for indigent individuals, available under §1-212(d)(1), G.S., is not available for the fee for accident or investigative reports, authorized by §29-10b, G.S.

13. Accordingly, because the complainant did not pay the \$16.00 search fee, it is concluded that the respondents did not violate the FOI Act by failing to provide copies of the requested records to 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of October 24, 2018.



Cynthia A. Cannata
Acting Clerk of the Commission

¹ The Commission’s decision in Mendieta cited an earlier version of §29-10b, G.S. The statutory fee was increased to \$16.00 by Public Act 09-3 (June Sp. Sess.).

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:

RAUL ZAYAS, #361676, MacDougall-Walker Correctional Institution, 1153 East Street South, Suffield, CT 06080

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, c/o Attorney James M. Belforti, Office of the Attorney General, 110 Sherman Street, Hartford, CT 06105



Cynthia A. Cannata
Acting Clerk of the Commission