

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Daryl McEntyre,

Complainant

against

Docket #FIC 2018-0569

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

Respondents

May 22, 2019

The above-captioned matter was heard as a contested case on December 17, 2018, at which time the complainant and 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, et. al., Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

After the hearing in this matter, the respondents filed, without objection, one after-filed exhibit which has been marked as follows: Respondents' Exhibit 5A: Amended Affidavit of CO Bowers, dated December 28, 2018.

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 September 13, 2018, the complainant made a request to the respondents for copies of "the logs for the entire day of 11/3/2016 which c/o Colby logged valuables in or out. The log books for who removed my necklace and cross from 12/1/2016 thru [sic] 7/24/2018 and any valuables logged and sent to Webster C.I. via Corrigan C.C. from 12/1/2016 thru [sic] 7/24/2018" ("September 13th request"). Such request was delivered to Correctional Counselor ("CC") Hakins, the respondents' Freedom of Information ("FOI") Liaison at Garner Correctional Institution ("C.I."), where the complainant was incarcerated.
3. It is found that by letter dated September 19, 2018, the respondents acknowledged the complainant's September 13th request.

4. It is found that on October 11, 2018, CC Hakins requested that the property officer at Garner C.I. retrieve the complainant's "property file" to search for records responsive to such request. It is found that the respondents located two one-page documents entitled "Inmate Property Inventory Form," in such property file. It is also found that CC Hakins forwarded the September 13th request to Correctional Officer ("CO") Bowers, the FOI Liaison at Corrigan-Radgowski C.I., where the inmate was previously incarcerated, to conduct an additional search. It is found that CO Bowers searched and located a one-page Inventory Log, dated November 3, 2016.¹

5. It is found that on October 12, 2018, the respondents attempted to provide the complainant with copies of the Inmate Property Inventory Forms and the one-page Log described in paragraph 4, above. The complainant, however, refused to accept the Inmate Property Inventory Forms, stating that he previously obtained copies and did not wish to incur fees for additional copies.

6. By letter of complaint received and filed October 12, 2018, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by failing to promptly provide him with all records responsive to his September 13th request, described in paragraph 2, above.

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

Any recorded data or information relating to the conduct of the public's business prepared, owned, used, received or retained by a public agency, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

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

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.

9. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

¹ The one-page Inventory Log (Respondents' Exhibit 3, page 1) is fully redacted, except for information regarding the complainant. The complainant did not object to the redactions and therefore such redactions are not at issue and will not be further addressed herein.

10. 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.

11. At the hearing, the complainant contended that the respondents did not search all locations, including a “property file” and inmate “master file.” The respondents contended that they searched all locations in which any responsive records would reasonably be located.

12. Correctional Counselor Hakins testified that, based on her ten years of experience with the respondent Department, property records such as those sought by the complainant are maintained in an inmate’s “property file,” and are not maintained in an inmate’s “master file.” The complainant’s master file was not searched.

13. It is found that the respondents conducted a reasonable and diligent search for and produced all records responsive to the complainant’s September 13th request in a prompt manner.

14. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

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 May 22, 2019.



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:

DARYL MCENTYRE, #186361, Garner Correctional Institution, 50 Nunnawauk Road, Newtown, CT 06470

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Tracie C. Brown, Department of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission