

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

NOTICE OF FINAL DECISION

Winston Riley,

Complainant

against

Docket #FIC 2015-751

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

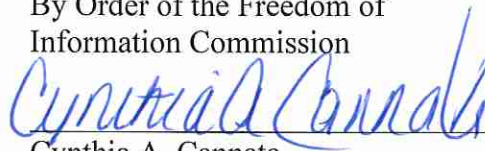
Respondents

August 26, 2016

TO: Winston Riley; Attorney James Neil, for the respondents.

This will serve as notice of the Final Decision of the Freedom of Information Commission in the above matter as provided by §4-183(c), G.S. The Commission adopted the Final Decision in the above-captioned case at its regular meeting of August 24, 2016.

By Order of the Freedom of
Information Commission



Cynthia A. Cannata
Acting Clerk of the Commission

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Winston Riley,

Complainant

against

Docket #FIC 2015-751

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

Respondents

August 24, 2016

The above-captioned matter was heard as a contested case on June 20, 2016, 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 October 7, 2015, the complainant made a request to the respondents for a copy of an incident report pertaining to an October 6, 2015 incident, and “for the name of the mailroom clerk/officers.”
3. It is found that, by letter dated October 13, 2015, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that a copy of the incident report would be delivered to him. The respondents also asked the complainant to clarify whether he was seeking the name of the mailroom officer who was working on the day of the incident or the names of all officers who rotate [through the mailroom].
4. It is found that, by letter dated October 15, 2015, the complainant informed the respondents that he was seeking the “the full name of the officer or officers that worked on October 6, 2015.”

5. It is found that, thereafter, the respondents denied his request for the full name of the officer who worked in the mailroom on October 6, 2015. It is found that the respondents did not identify an exemption to disclosure of such information and did not offer any other explanation to the complainant for non-disclosure of such information.

6. It is found that, on October 22, 2015, the respondents provided to the complainant a copy of the incident report he requested, but continued to deny the complainant's request for the full name of the mailroom officer.

7. By letter filed with the Commission on November 4, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with the full name of the mailroom officer, as described in paragraphs 2 and 4, above.¹ The complainant requested the imposition of a civil penalty against the respondents.

8. 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.

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

[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.

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

11. At the hearing in this matter, the respondents argued that the first names of staff members of the respondent department are exempt from disclosure pursuant to §1-210(b)(18), G.S., and the Commission's decision in Curt Rivard v. Jon Brighthaupt, Deputy Warden, State of

¹ Although a public agency is not required by the FOI Act to answer questions, it is found that the name of the officer is contained in records maintained by the respondents.

Connecticut, Department of Correction, Northern Correctional Institution, et al., Docket #FIC 2009-350 (May 12, 2010) (“Rivard”).

12. The complainant argued, at the hearing in this matter, that the respondents should have provided him with an explanation for the denial of his request at the time of such denial.

13. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of “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....”

14. In Rivard, the Commission found that “the use of only last names creates and maintains the formal relationship between staff and inmates that is necessary to maintain order in a correctional institution or facility because the formality generates respect for a staff member and his or her authority.” The Commission further found that “if an inmate does not respect a staff member or his or her authority, he is more likely to disobey directives which may result in a safety risk...within the meaning of §1-210(b)(18), G.S.”

15. Accordingly, the Commission concluded in Rivard that the Commissioner of Correction had reasonable grounds to believe that disclosure of the first names of staff members may result in a safety risk, and that therefore, the respondents did not violate the FOI Act by withholding such information.

16. Based upon the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by denying the complainant’s request for the full name of the mailroom officer.

17. Because no violation occurred, the Commission need not consider the complainant’s request for a civil penalty.

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. However, the Commission notes that had the respondents simply cited an exemption to disclosure or otherwise offered an explanation for the denial of the complainant’s request at the time of such denial, the time and expense of a hearing in this matter might have been avoided.

Approved by Order of the Freedom of Information Commission at its regular meeting of August 24, 2016.



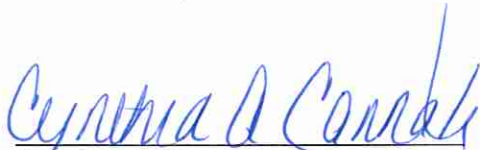
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Winston Riley
Carl Robinson Correctional Institution
285 Shaker Road
Enfield, CT 06082

Scott Semple, Commissioner, State of
Connecticut, Department of Correction;
and State of Connecticut, Department of
Correction
c/o James Neil, Esq.
24 Wolcott Hill Road
Wethersfield, CT 06109


Cynthia A. Cannata
Acting Clerk of the Commission