

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Noah Snyder,

Complainant

against

Docket #FIC 2019-0231

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

Respondents

September 11, 2019

The above-captioned matter was heard as a contested case on May 31, 2019, 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 April 4, 2019, the complainant requested from the respondents the opportunity to inspect and copy certain emails and text messages sent or received by several employees of the respondent department.
3. It is found that, by letter dated April 9, 2019, the respondents denied the complainant's request to inspect the requested records because he is incarcerated and "nothing in the Freedom of Information Act...requires an agency to produce records at the location of the requester." The respondents also informed the complainant that in order for [the Bureau of Enterprise Systems and Technology, within the Department of Administrative Services] to conduct a search for responsive emails, the complainant would need to provide five search terms in addition to the names and dates he provided in his request. Finally, the respondents informed the complainant that, once the search was completed and the number of emails was determined, payment for copies would be requested and, once payment was received, the copies would be provided to him.

4. By letter dated April 12, 2019, and filed April 17, 2019, the complainant appealed to this Commission, alleging only that the respondents violated the Freedom of Information (“FOI”) Act by denying him the opportunity to inspect the requested records. The complainant requested the imposition of a civil penalty.

5. 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.

6. 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....

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

8. It is found that the complainant refused to provide the search terms requested by the respondents. It is found that the search resulted in at least 300,000 pages of records, and that the respondents notified the complainant that the cost for copies of such pages would be at least \$75,000. It is found that the respondents also conducted a search for text messages, and that none were located.

9. At the hearing in this matter, the respondents argued that the issue raised in the complaint was previously decided by this Commission in Norman Gaines v. Records Liaison, State of Connecticut, University of Connecticut Health Center, Correctional Managed Health Care, et al., Docket #FIC 2017-0369 (March 28, 2018).

10. In Gaines, the Commission stated:

[i]mplicit in the right to inspect records...is the requirement that an individual appear during regular office or business hours at the office of the public agency at which the records

are maintained in order to exercise that right...[n]othing in the FOI Act...requires an agency to produce records at the location of the requester....[A]n individual's inability to exercise his right...whether...because he is confined to a prison facility,...a sick bed at home, or because he is unable to be excused from his job during the day, does not create a duty on the part of the public agency to bring the records to that individual so that he can exercise his right to inspect them.

11. It is found that, due to his incarceration, the complainant was, at all relevant times, unable to appear at the offices of the respondents during regular business hours to exercise his right to inspect records, as such right has been interpreted by this Commission in Gaines.

12. Accordingly, it is therefore concluded that the respondents did not violate §1-210(a), G.S., as alleged in the complaint.

13. At the hearing in this matter, the complainant stated that he is scheduled to be released from the respondents' custody in the near future. The respondents' FOI Administrator testified that, once the complainant is no longer incarcerated, the requested records will be available for him to inspect at the respondents' offices during regular business hours.

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 September 11, 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:

**NOAH SNYDER, #282683**, Robinson Correctional Institution, 285 Shaker Road, Enfield, CT 06082

**ROLLIN COOK, COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION**, c/o Attorney Jennifer Lepore, Dept. of Correction, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata  
Acting Clerk of the Commission