

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

David Osuch,

Complainant,

against

Docket # FIC 2016-0552

Executive Director, State of Connecticut,
University of Connecticut Health Center,
Correctional Managed Health Care; and
State of Connecticut, University of
Connecticut Health Center, Correctional
Managed Health Care,

Respondents

May 10, 2017

The above-captioned matter was heard as a contested case on March 23, 2017, 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 et al, 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)(A), G.S.
2. It is found that, on July 1, 2016, the complainant asked the respondents to “please provide all emails concerning David Osuch ... from March 21, 2016 to the present.”
3. It is found that, on July 11, 2016, the respondents acknowledged the complainant’s request.
4. By letter filed August 2, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the requested records.
5. Section 1-200(5), G.S., defines “public records” as follows:

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, ... 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:

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, ... 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: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

8. It is concluded 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 the respondents gathered the requested records, a total of 99 pages. It is found that the respondents then checked the Department of Correction ("DOC")'s list of indigent inmates, and because the complainant was not on such list, informed him that they would send him the copies if he paid the statutory fee of 25 cents per page.

10. The complainant suggested at the hearing in this matter that he should be permitted to receive the copies on credit and an obligation to pay should be established on his inmate's trust account. The complainant testified that he based his suggestion on DOC's Administrative Directive 3.12.

11. The Commission takes administrative notice of DOC Administrative Directive 3.12, entitled "Fees for Programs and Services." <http://www.ct.gov/doc/LIB/doc/PDF/AD/ad0312.pdf>, accessed March 24, 2017.

12. It is found that the stated policy of the Directive 3.12 is to "hold sentenced inmates accountable for costs associated with their incarceration." It is found that the directive applies to fees for: halfway houses, medical care, elective education and vocational education programs, extended family visits, and laboratory testing fees where the result of any such test is positive.

13. It is found that a request for public records is not within the scope of Administrative Directive 3.12; therefore, the directive does not apply to the complainant's request to receive copies of the requested records.

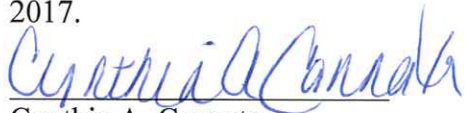
14. At the hearing in this matter, the complainant also stated that he requests in the alternative to inspect the responsive records. It is found, however, that his request was reasonably construed by the respondents as a request to receive copies of records.

15. It is concluded that the respondents did not violate the FOI Act as alleged.

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 May 10, 2017.



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:

David Osuch #139268
Garner Correctional Institution
50 Nunnawauk Road
Newtown, CT 06470

Executive Director, State of Connecticut, University of
Connecticut Health Center, Correctional Managed Health
Care; and State of Connecticut, University of Connecticut
Health Center, Correctional Managed Health Care
c/o Stephen R. Finucane, Esq.
Assistant Attorney General
State of Connecticut,
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110 Sherman Street
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Cynthia A. Cannata
Acting Clerk of the Commission