

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Timothy Townsend,

Complainant

Docket # FIC 2016-0475

against

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

Respondents

May 24, 2017

The above-captioned matter was heard as a contested case on November 9, 2016, at which time the complainant and 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), G.S.
2. It is found that, on May 25, 2016, the Commission issued a final decision in Docket #FIC 2015-643, Timothy Townsend v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, in which the Commission ordered the respondents to undertake a search for records relating to disciplinary report CRCC-1502012, and provide copies of any responsive records to the complainant, free of charge. In Docket #FIC 2015-643, the records that were ordered to be disclosed pertained to a January 27, 2015 incident and remarks that the complainant made towards respondents' staff which were perceived as threatening. The Commission found that the respondents should have provided, at a minimum, a copy of a disciplinary report and a disciplinary process summary report, both numbered CRCC 1502012.
3. It is found that, by letter dated June 15, 2016, the complainant made a request to the respondents for "the documents, and all of them, related to report CRCC 1502012." In the June 15th request, the complainant also stated that "[t]he Freedom of Information Commission has

already made a final decision in this matter (FIC 2015-643) but I have not received the documents....”

4. By letter dated June 27, 2016, and filed on June 30, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with copies of the records, described in paragraph 3, above.

5. Section 1-200(5), G.S., defines “public records or files” as:

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 section 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 that:

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 . . . (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. 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.

9. On April 20, 2017, the hearing officer ordered the respondents to submit copies of the records that were provided to the complainant in response to his June 15th request, described in paragraph 3, above.

10. By email dated April 27, 2017, the respondents provided the hearing officer with 37 pages of documents including, but not limited to, an incident report (and supplemental pages), numbered CRCC 2015-01-150, concerning an alleged assault on the complainant by a corrections officer on January 21, 2015, and the subsequent investigation.¹ The incident report includes, among other information, information regarding a January 27, 2015 telephone call during which time the complainant made threats towards DOC staff, and the issuance of a Class A Disciplinary Report for such threats. A reference number was not provided for such disciplinary report.

¹ The documents described in paragraph 10, above, have been marked as Respondents’ Exhibit 1.

11. It is found that the documents submitted to the Commission on April 27, 2017, as described in paragraph 10, above, did not include a disciplinary report, nor any other documents, numbered CRCC 1502012.

12. It is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondents shall forthwith undertake a search for records responsive to the complainant's request, described in paragraph 3 of the findings, above, and provide copies of any responsive records to the complainant, free of charge. If the respondents do not locate any additional records responsive to the complainant's request, the respondents shall provide the complainant with an affidavit detailing the results of their search.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 24, 2017.



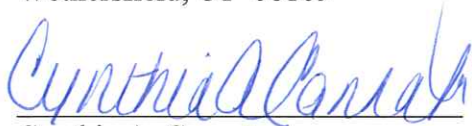
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Timothy Townsend #243804
Osborn Correctional Institution
335 Bilton Road
P.O. Box 100
Somers, CT 06071

Commissioner, State of Connecticut, Department of Correction;
and State of Connecticut, Department of Correction
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Cynthia A. Cannata
Acting Clerk of the Commission