

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Edward A. Peruta and the American
News and Information Services, Inc.,

Complainants

against

Docket #FIC 2016-0500

Regina Picard, State of Connecticut,
Judicial Branch; and State of
Connecticut, Judicial Branch,

Respondents

May 24, 2017

The above-captioned matter was heard as a contested case on October 27, 2016, at which time the complainants and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies only with respect to their administrative functions, within the meaning of §1-200(1), G.S.
2. By complaint filed July 12, 2016, the complainants appealed to the Commission, alleging that the respondents denied their request to inspect a public record without putting his request in writing. The complainant requested the imposition of a civil penalty.
3. It is found that, the complainant Peruta, on Monday July 11, 2016, at the clerk's office at the G.A. 21 court in Norwich, Connecticut, asked whether his Friday, July 8, 2016 request for accommodation under the Americans with Disabilities Act ("ADA") was being granted.
4. It is found that the complainant was told that his ADA request was being denied, based on an email that the Deputy Chief Clerk then read to Peruta.
5. It is found that the requested email (Respondents' Exhibit 4) reads in its entirety:

From: Picard, Regina
Sent: Monday, July 11, 2016 11:38 AM
To: Pattavina, Holly
Cc: Irace, Daniel
Subject: FW: ADA Request

Hi Holly,

I just left you a voice mail. The requests that this gentleman made are not under the umbrella of the ADA.

The JMS [Judicial Marshal Services] already have in place a procedure in place/protocol [sic] for people who come to the metal [detector] and have pacemakers, so no accommodation is necessary.

As to his other request, unless the individual identifies as a transgender individual, any search should be conducted by a same sex marshal. No exceptions. JMS has a policy in place for this as well.

Let me know if you have any questions.

Regina.

Regina Picard
Project Management and Administration
Superior court Operations Division
90 Washington Street
Hartford, CT 06106-1692

860-706-5323

6. The complainant Peruta contended that he wanted to inspect this email, but was required to put his request to inspect in writing.
7. The respondents contended that the complainant was shown the email, but that he additionally asked for a copy, which they asked him to put in writing.
8. Section 1-200(5), G.S., provides:

“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, 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.

9. 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, (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.

10. 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.”

11. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

12. The parties do not now dispute that a public agency may not *require* a person to put a request to *inspect* a public record in writing.

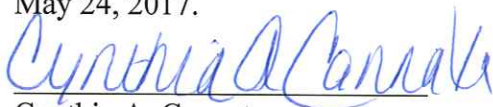
13. The parties only dispute exactly what happened on July 11, 2016 at G.A. 21, a dispute that this Commission finds impossible, and unnecessary, to resolve.

14. The Commission acknowledges the complainant’s zeal to enforce the provisions of the FOI Act, noting that this zeal may have contributed to what appears to be at most a misunderstanding between the parties.

15. The Commission also acknowledges that some of the confusion may have been created by the Commission’s own website, relied on by the respondents, which contained at that time ambiguous language concerning §1-212(a), G.S. That language was immediately corrected, and the Commission appreciates the parties having brought that language to its attention.

No order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint.

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



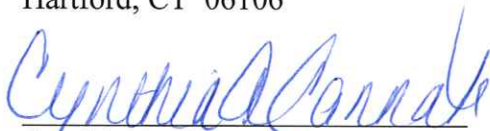
Cynthia A. Cannata
Acting Clerk of the Commission

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:

Edward A. Peruta and the American
News and Information Services, Inc.
c/o Rachel M. Baird, Esq.
15 Burlington Road
Harwinton, CT 06791

Regina Picard, State of Connecticut, Judicial Branch;
and State of Connecticut, Judicial Branch
c/o Martin R. Libbin, Esq.
State of Connecticut,
Judicial Branch
100 Washington Street, Third Floor
Hartford, CT 06106



Cynthia A. Cannata
Acting Clerk of the Commission