

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

James Walker,

Complainant

against

Docket #FIC 2017-0157

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

Respondents

January 10, 2018

The above-captioned matter was heard as a contested case on September 5, 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), G.S.
2. It is found that by letter dated February 26, 2017, the complainant made a request to the respondents for the following:
 - a. the legal call log for the date 1-19-17 that was signed by James Walker; and
 - b. the camera footage of 1-19-17 of H2 Block, between 8 a.m. and 4 p.m.

3. By letter received and filed on March 16, 2017, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FO”) Act by failing to comply with his records request.

4. 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.

5. 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.

6. 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.”

7. It is found that the requested records, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. With respect to the complainant’s request described in paragraph 2a, above, it is found that on March 2, 2017, Counselor Moore, of the respondent department, informed the complainant that there was no record of a legal call made by him on January 19, 2017 and inquired if he wanted a copy of the call log for two different dates for which there was a record of a legal call made by him.

9. It is found that the complainant never responded to Counselor Moore and, at the hearing on this matter, testified that he never received Counselor Moore’s response. The complainant also testified that he did not make a call on January 19, 2017 and wanted the call log as evidence for his claim in court that he was being denied his right to make legal calls.

10. It is found that the respondents do not maintain a record of a legal call made by the complainant on January 19, 2017 because such record does not exist.

11. With respect to the complainant's request described in paragraph 2b, above, it is found that the complainant was informed by Counselor Moore, in a separate letter dated March 2, 2017, that the video footage he requested no longer existed and therefore, could not be provided.

12. It is found that the January 19, 2017 video recording was erased pursuant to the respondents' thirty day retention policy and no longer existed at the time of the complainant's February 26, 2017 request.

13. At the hearing on this matter, the complainant contended that he did not receive a copy of the March 2, 2017 letter described in paragraph 11, above. He also contended that he first requested the video within ten days of January 19, 2017, and that, therefore, the respondents had an obligation to maintain the footage.

14. It is found, however, that the respondents have no knowledge, or any record of, a prior request for the January 19, 2017 video recording from the complainant. In addition, it is found that the complainant's appeal to this Commission makes no reference to any prior requests but rather only references his February 26, 2017 request. Therefore, the scope of this appeal is limited to the complainant's February 26, 2017 request to the respondents.

15. It is found that, as of February 20, 2017, the respondents no longer maintained the camera footage requested by the complainant in paragraph 2b, above, and that such record no longer exists.

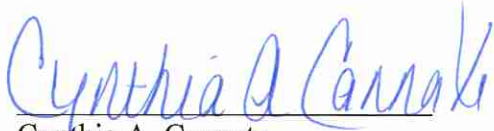
16. Based on the findings in paragraphs 10 and 15, above, it is concluded that the respondents did not violate the disclosure provisions of §§1-210(a) or 1-212(a), G.S., as alleged by the complainant.

17. Notwithstanding the findings and conclusions, above, the respondents agreed, at the hearing on this matter, to provide the complainant with a redacted copy of the call log for January 19, 2017 which would reflect that he did not make a legal call on that date, along with a copy of the March 2, 2017 letter described in paragraph 11, above.

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

1. The complaint is hereby dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 10, 2018.



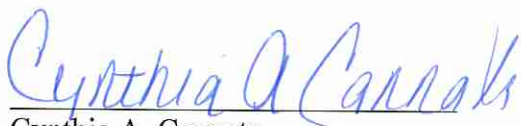
Cynthia A. Cannata
Acting Clerk of the Commission

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:

JAMES WALKER, #284986, Brooklyn Correctional Institution, 59 Hartford Road, Brooklyn, CT 06234

COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION; AND STATE OF CONNECTICUT, DEPARTMENT OF CORRECTION, c/o Attorney Nancy Canney, 24 Wolcott Hill Road, Wethersfield, CT 06109



Cynthia A. Cannata
Acting Clerk of the Commission