

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Shawn Crocker,

Complainant

against

Docket #FIC 2018-0748

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

Respondents

June 26, 2019

The above-captioned matter was heard as a contested case on April 8, 2019, at which time the complainant and 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 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 form dated December 18, 2018, the complainant made a request to the respondents for copies of, or to review, “documents detailing the number of inmates at Garner CI [Correctional Institution] who had outside eye glasses sent into the facility from February 1, 2018 to December 18, 2018. These documents should include [sic] the ethnicity of the inmates who receive outside eye glasses from the above mention[ed] timeframe” (“the records request”).¹
3. It is found that the respondents received the complainant’s records request on December 17, 2018.
4. It is found that the respondents notified the complainant on January 2, 2019 that they do not maintain records responsive to the records request.

¹ The Commission notes that although the records request was dated December 18, 2018, the actual date of such request is unclear. As found in paragraph 3, above, the respondents received the records request on December 17, 2018, and therefore the date of the request could not have been December 18, 2018.

5. By letter of complaint received and filed December 28, 2018, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with records responsive to the request described in paragraph 2, above. The complainant also requested the imposition of civil penalties against the respondents.

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

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.

7. 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, (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.

8. 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.”

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

10. At the hearing, the respondents contended that they understood the records request to be a request for a “quantitative number,” or a type of log, and that no records exist that are responsive to such request.

11. It is found that the respondents’ interpretation of the records request was reasonable.

12. It is found that the property and medical officers at Garner C.I. searched for responsive records. It is also found that the respondents determined that they do not maintain any records responsive to the complainant’s request.

13. At the hearing, the complainant testified that he has personal knowledge of two forms at Garner C.I. that document when inmates request and receive eye glasses from outside the correctional facility. The respondents acknowledge that such forms exist. However, they

contend that the forms are not responsive to the complainant's records request based on their understanding of such request.

14. It is found that the respondents conducted a reasonable and diligent search and that no responsive records exist.

15. It is further found that the records request described in paragraph 2, above, would require the respondents to create records. It is found that the FOI Act does not require public agencies to create records in response to a request.

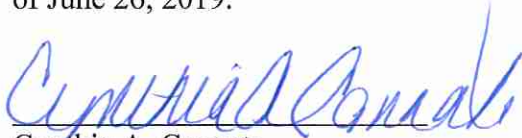
16. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

17. Because there is no violation, no civil penalty is warranted.

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 June 26, 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:

SHAWN CROCKER, #204918, Garner Correctional Institution, 50 Nunnawauk Road, Newtown, CT 06470

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



Cynthia A. Cannata
Acting Clerk of the Commission