

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Ian Cooke,

Complainant

against

Docket #FIC 2017-0173

Commissioner, State of Connecticut,  
Department of Emergency Services  
and Public Protection, Forensic  
Science Division; and State of Connecticut,  
Department of Emergency Services and  
Public Protection, Forensic Science Division,

Respondents

January 24, 2018

The above-captioned matter was heard as a contested case on October 3, 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 March 8, 2017, the complainant made a request to the respondents for certain records related to “the case State v. Ian Cooke, submitted by the Groton Town Police Department, Local Case #200605224, Laboratory Case #ID-06-00 1544 between the dates of June 2006 and the present.” It is found that the complainant’s request included the following seven itemized requests:
  - a. “all information produced by/at the lab by the Firearms/Ballistics section(s) (generally) to include but not be limited to: tool mark analysis, comparison analysis,

chemical/gunshot residue analysis (possibly performed by another section of the lab), firearm operability testing, IBSIS/NIBIN inquir(ies), BATF/FBI inquir(ies), test firing analysis; to include stock ammunition information, distance examination, e.g. target/projectile patterning, and related analysis;

- b. laboratory protocols/guidelines for Firearms/Ballistics analysis;
- c. laboratory protocol/guidelines for internal evidence tracking i.e. how submitted evidence is tracked flagged and how 'chain of custody' is maintained within the lab;
- d. laboratory protocol/guidelines for addressing incidents where evidence is lost, misplaced, or chain of custody broken;
- e. laboratory protocol/guidelines for third party analysis i.e. where a defendant/third party requests independent analysis/testing of submitted items and/or where a defendant/third party requests to participate/observe the lab testing process [-] those protocol(s) /guideline(s) relating to such occurrences;
- f. all information regarding this case (State v. Cooke) relating to internal evidence tracking at the lab to include information addressing any items which were lost, misplaced, and/or chain of custody broken;
- g. all information regarding requests for testing, analysis, examination, and/or observation of any part of the lab's examination in State v. Cooke and, also, requests for independent testing, analysis, examination and/or observation of evidence to include but not limited to requests originating from/by agents of/on behalf of: Ian Cooke, Gilbert Sha Sha, Anthony Basilica, John Walkley, Robert Byron, John Williams, John McNichols, Rick Siena, Franco Sauzo, and any other persons.”

3. By letter dated March 21, 2017 and filed on March 24, 2017, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his 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 concluded 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. It is found that during the latter part of the month of April, the complainant was provided with copies of approximately 93 records in response to his request. It is found, however, that the complainant believed that the production of records was incomplete specifically with respect to records related to lab and evidence contamination, firearms and tool mark analysis and the chain of custody for evidence.

9. It is found that the complainant corresponded on two different occasions, by letter, with the attorney from the respondent department’s Legal Affairs division assigned to manage his request concerning his belief that he had not been provided with all responsive records. It is found that the attorney thoroughly questioned the staff of the respondent Forensic Science Division regarding the nature of their search and the records produced. It is found that she confirmed that an exhaustive search had been conducted and that the respondents maintain no additional records responsive to the complainant’s request. It is found that the attorney responded to each of the complainant’s letters informing him that the agency has no additional responsive records.

10. At the hearing on this matter, the complainant reiterated his concerns to this Commission that he had not been provided with all responsive records - specifically with respect to records related to lab and evidence contamination, firearms and tool mark analysis and the chain of custody for evidence.

11. At the hearing on this matter, the respondents' witness testified credibly, and it is found that, the respondents conducted an exhaustive search for records responsive to the complainant's request and that he was provided with all responsive records that still exist and are maintained by the respondents.<sup>1</sup> It is found that no other responsive records exist.

12. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., of the FOI Act as alleged by the complainant.

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 24, 2018.



Cynthia A. Cannata  
Acting Clerk of the Commission

---

<sup>1</sup> It is found that one specific case jacket that contained records responsive to the complainant's request cannot be located and has been determined to be missing. It is found that the respondents have initiated an incident report addressing that issue.

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:

**IAN COOKE, #340812**, Garner Correctional Institution, 50 Nunnawauk Road, Newtown, CT 06470

**COMMISSIONER, STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, FORENSIC SCIENCE DIVISION; AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION, FORENSIC SCIENCE DIVISION**, c/o Assistant Attorney General Terrence M. O'Neill, Office of the Attorney General, 110 Sherman Street, Hartford, CT 06105



Cynthia A. Cannata  
Acting Clerk of the Commission