



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Jan Gawlik,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0140

Denise Merrill, Secretary of the State, State of  
Connecticut, Office of the Secretary of the State; and  
State of Connecticut, Office of the Secretary of the State,  
Respondent(s)

December 15, 2016

## Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, January 11, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE December 29, 2016**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE December 29, 2016**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE December 29, 2016**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of  
Information Commission

W. Paradis  
Acting Clerk of the Commission

Notice to: Jan Gawlik  
Assistant Attorney General Philip Miller  
cc: Craig Washington

FIC# 2016-0140/Trans/wrbp/KKR//VDH/2016-12-15

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jan Gawlik,

Complainant

against

Docket #FIC 2016-0140

Denise Merrill, Secretary of the State,  
State of Connecticut, Office of the  
Secretary of the State; and State of  
Connecticut, Office of the Secretary of  
the State,

Respondents

December 12, 2016

The above-captioned matter was heard as a contested case on November 15, 2016, at which time the complainant and the 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, 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 and application dated December 16, 2015, the complainant requested from the respondents certified copies of Department of Correction (“DOC”) Administrative Directives 6.10, 10.7 and 10.8, as well as copies of statements from the DOC “heads” certifying that the administrative directives “are true copies approved by the legislative branch review committee by General Assembly.”
3. By letter dated February 10, 2016, and filed with the Commission on February 18, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with the request, described in paragraph 2, above.
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 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... (3) receive a copy of such records in accordance with section 1-212.

6. It is found that, to the extent the respondents maintain the records, described in paragraph 2, above, such records are public records.

7. At the hearing in this matter, the complainant claimed that §§4-172 and 4-170(d), G.S., require the DOC to obtain legislative approval of its administrative directives, and to file evidence of such approval with the respondent Office of the Secretary of the State. However, in Jan Gawlik v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction, Docket #FIC 2016-0317 (December 7, 2016) (“Gawlik 2016-0217”), the Commission concluded, in paragraph 11, that:

the requirements of §§4-172 and 4-170, G.S., apply only to state agency regulations, and that the [DOC]’s administrative directives are not state agency regulations. It is found that the legislature does not approve the [DOC]’s administrative directives; but rather, the [C]ommissioner [of the DOC] alone has authority on behalf of the [DOC] to approve and adopt administrative directives.

8. In addition, it is found that the respondents conducted a thorough search for records responsive to the request, described in paragraph 2, above, and that they do not maintain any such records.

9. Based upon the foregoing, it is concluded that the respondents did not violate 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 dismissed.



Kathleen K. Ross  
As Hearing Officer

FIC2016-0140/hor/kkr/112122016