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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Kacey Lewis,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0417

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

Respondent(s)

December 29, 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 25, 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 January 13, 2017**. 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 January 13, 2017**. **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 January 13, 2017**, 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: Kacey Lewis
Attorney James Neil
cc: Craig Washington

FIC# 2016-0417/Trans/wrbp/KKR/LFS/2016-12-29

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kacey Lewis,

Complainant

against

Docket #FIC 2016-0417

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

Respondents

December 28, 2016

The above-captioned matter was heard as a contested case on December 16, 2016, at which times 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 on May 13, 2016, the complainant asked to inspect records “compiled by PREA (Prison Rape Elimination Act) Investigator Demetrius on May 12, 2016 ... concerning the sexual misconduct allegations made against me...”
3. It is found that the respondents acknowledged the request on May 16, 2016. It is found that in such acknowledgement letter, the respondents informed the complainant that the investigation may not have been complete but that the complainant would hear back when the records were ready for disclosure.
4. By letter filed June 6, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records he requested.
5. 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, ... whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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, ... or (3) receive a copy of such records in accordance with section 1-212.

7. 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.

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

9. It is found that in July 2016, the complainant learned from Investigator Demetrius that the investigation was complete. It is found, however, that the complainant did not receive any records at that time.

10. It is found that the person at the respondents' PREA unit who had responsibility for responding to the complainant's request was transferred to a different unit and the complainant's request got misplaced.

11. It is found that the respondents' FOI liaison did not learn about the complainant's request until about two weeks before the scheduled hearing in this matter.

12. It is found that the liaison then spoke to the necessary personnel in the PREA unit, who provided the records to the liaison about one week later. It is found that the liaison then reviewed the records and made the redactions that he believed were necessary. It is found that the liaison finished his review of the records one day before the scheduled hearing in this matter.

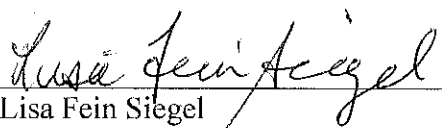
13. It is found that the respondents are prepared to deliver the records to the complainant.

14. It is found that the respondents failed to provide the records promptly to the complainant. It is concluded, therefore, that the respondents violated §§1-210(a) and 1-212(a), G.S.

15. Nevertheless, the Commission commends FOI liaison Washington for his diligence in obtaining and reviewing the records requested by the complainant in this matter.

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

1. Forthwith, the respondents shall provide the requested records to the complainant.



Lisa Fein Siegel
as Hearing Officer