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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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Abin Britton,
Complainant(s)

against

Commissioner, State of Connecticut,
Department of Correction; and State of
Connecticut, Department of Correction,
Respondent(s)

Notice of Rescheduled
Commission Meeting

Docket #FIC 2016-0701

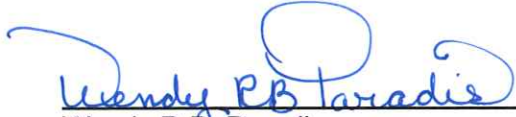
August 1, 2017

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, June 14, 2017 at 2:00 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m.** on **Wednesday, August 23, 2017.**

Any brief, memorandum of law or request for additional time, as referenced in the May 17, 2017 Transmittal of Proposed Final Decision, should be received by the Commission on or before August 11, 2017.

By Order of the
Freedom of Information Commission


Wendy R.B. Paradis,
Acting Clerk of the Commission

Notice to: Abin Britton
Attorney James Neil
cc: Craig Washington

2016-0701/RTRA/PSP/VDH/WRBP/08/01/17

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Abin Britton,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0701

Commissioner, State of Connecticut, Department of Correction;
and State of Connecticut, Department of Correction,
Respondent(s)

May 17, 2017

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, June 14, 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 June 2, 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 June 2, 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 June 2, 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: Abin Britton
Attorney James Neil
cc: Craig Washington

FIC# 2016-0701/Trans/wrbp/PSP//VDH/2017-05-17

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Abin Britton,

Complainant

Docket # FIC 2016-0701

against

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

Respondents

May 9, 2017

The above-captioned matter was heard as a contested case on April 27, 2017, at which time the complainant and 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 or about September 13, 2016, the complainant made a request to the respondents for “inmate [illegible] Carr legal visit. The only one I need is the one that pertain [sic] to the State Attorney Office or State Inspector.” It is found that the referenced inmate’s first name is difficult to decipher.
3. It is found that on or about September 15, 2016, the respondents informed the complainant that his September 13, 2016 request, described in paragraph 2, above, was unclear and that they were uncertain as to what information was sought.
4. By letter received and filed on October 7, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with copies of the records requested on September 13, 2016. In his complaint, he identified the records sought on September 13th as: “Dates and times of when any

and all state's attorney's or state inspectors, including but not limited to Regan visited inmate Norman Carr between the dates 2001-2004." [Emphasis in original]. In an affidavit appended thereto, he also attested that, as of September 21, 2016, the respondents had neither acknowledged nor provided any records in response to, his September 13th request.

5. Section 1-200(5), G.S., defines "public records or files" as:

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.

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

7. 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."

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

9. At the hearing, the respondents maintained that the original September 13th request was unclear. Counselor Ilvento, on behalf of the respondents, testified that he received and reviewed the complainant's request, and found it difficult to understand as he could not make out the name of the referenced inmate, nor did the request include any locations of correctional facilities, date(s) and time(s) of visits and name(s) of attorneys. Counselor Ilvento also testified that the complainant never responded to his September 15th response, described in paragraph 3, above. In addition, counsel for the respondents contended that the complainant needed to be more specific in his request as inmate Carr had been in eight different correctional facilities between 2000 and 2004, and transferred to Florida in 2004.

10. The complainant argued, however, that his September 13th request was very clear. He also testified that he received the respondents' September 15th response, described in paragraph 3, above, on September 20, 2016, and immediately sent out a more specific request.

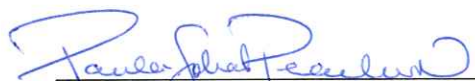
11. It is found that the complainant's testimony regarding the receipt of the respondents' September 15th response is contrary to the complainant's affirmations set forth in his affidavit regarding the respondents' failure to even acknowledge the complainant's September 13th request.

12. It is found that the complainant's original September 13th request was unclear as to the records sought and it is further found that the respondents' reply, as described in paragraph 3, above, was a reasonable response to such request.

13. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

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.


Paula S. Pearlman
as Hearing Officer