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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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Ralph Mclellan  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0784

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

Respondent(s)

August 18, 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 **2:00 p.m. on Wednesday, September 13, 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 August 30, 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 August 30, 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 August 30, 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

Wendy R.B. Paradis  
Acting Clerk of the Commission

Notice to: Ralph Mclellan  
Attorney James Neil  
cc: Craig Washington

FIC# 2016-0784/ITRA/PSP/VDH/WRBP/2017-08-18

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Ralph Mellelan,

Complainant

Docket # FIC 2016-0784

against

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

Respondents

August 18, 2017

The above-captioned matter was heard as a contested case on August 1, 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 by letter dated October 9, 2016, the complainant made a request to the respondents for the following:

[a] Any and all documentation used to convict me of Disciplinary violation report # MWCI1607069 that took place on 7/15/16 [;]

[b] Notwithstanding, incident reports, supplemental reports of said incident, report # MWCI1607069 [; and]

[c] Also, to preserve a copy or transcribe a copy of taped phone calls used to form a synopsis to use as evidence in Disciplinary

violation report # MWC11607069 [hereinafter the “telephone calls”].

3. It is found that by letter dated October 25, 2016, the respondents acknowledged the complainant’s October 9, 2016 request, described in paragraph 2, above.

4. By letter of complaint received on November 4, 2016, the complainant appealed to this Commission, alleging that the respondents failed to comply with his October 9, 2016 request, described in paragraph 2, above, in violation of the Freedom of Information (“FOI”) Act. At the hearing, the complainant stated that the only portion of his October 9<sup>th</sup> request that remained outstanding was his request for the preservation or transcription of the telephone calls, described in paragraph 2[c], above. Accordingly, the allegations concerning the requests described in paragraphs 2[a] and 2[b], above, are no longer at issue and will not be further addressed herein.

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.

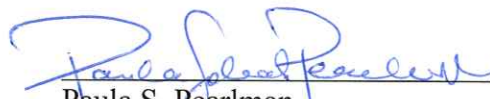
7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. At the hearing, the respondents testified that the Department of Correction transcribed the telephone calls, described in paragraph 2[c], above, and that a copy of the transcription was preserved. They contended, however, that the complainant’s request, described in paragraph 2[c], above, was not a request for copies of the telephone calls or a transcription. Rather, it was a request to preserve or transcribe the telephone calls. The complainant would have to make a separate request for a copy of the transcription.

9. It is found that the complainant has not alleged a violation of the FOI Act with respect to the request described in paragraph 2[c], above. Consequently, 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 hereby dismissed.

  
Paula S. Pearlman  
as Hearing Officer