



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2014-323

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

Respondent(s)

February 27, 2015

## 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, March 25, 2015**. 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 March 13, 2015**. 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 March 13, 2015**. 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 **fourteen (14) copies** be filed **ON OR BEFORE March 13, 2015**, 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: Timothy Townsend  
James Neil, Esq.

2015-02-27/FIC# 2014-323/Trans/wrbp/VRP/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Timothy Townsend,

Complainant

against

Docket #FIC 2014-323

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

Respondents

February 26, 2015

The above-captioned matter was heard as a contested case on December 18, 2014, at which time the complainant and 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 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. By letter of complaint filed May 23, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his requests for copies of certain public records.
3. It is found that the complainant made an April 25, 2014 request to the respondents "to know at what correctional facility did Capt. Bryan Viger work before he was assigned to the Cheshire correctional facility. Please provide the dates spent at each facility."
4. It is found that the complainant made an April 30, 2014 request to the respondents for "a copy of Captain Bryan Viger's signed acknowledgment stating that he read and understood Cheshire's Unit directives when he was transferred there."
5. It is found that the complainant made a May 1, 2014 request to the respondents for a copy of "all corresponding Unit Directives to Administrative Directive 6.10 including all Unit

forms and attachments. I would also like the Unit Directives corresponding to Administrative Directive 9.6, including all Unit forms and attachments used locally. I would like each Unit Directive above to be the one in effect in 2009, including local forms and attachments.”

6. It is found that the complainant made a second May 1, 2014 request to the respondents for a copy of “the following Administrative Directives in effect in 2009: A.D. 1.3; A.D. 1.2; A.D. 9.6; A.D. 8.3; A.D. 6.7; and [A.D.] 6.10.”

7. Section 1-200(5), G.S., defines “public records” as follows:

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.

8. 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 ... receive a copy of such records in accordance with the provisions of section 1-212.

9. 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.”

10. The respondents maintain that the request in paragraph 3, above, for Captain Viger’s work assignments is not a request for public records, but a request to have the complainant’s questions answered.

11. It is found, however, that the complainant’s request may reasonably be understood as a request for copies of public records that reflect Captain Viger’s work assignments.

12. It is concluded that the records requested by the complainant in paragraph 3, above, regarding the work assignments of Captain Viger, and also the records described in paragraph 6, above, regarding certain Administrative Directives, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

13. Section 18-101f, G.S., provides in relevant part:

A personnel or medical file or similar file concerning a current or former employee of the ... Department of Correction ... shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200, to any individual committed to the custody or supervision of the Commissioner of Correction

14. The Commission takes administrative notice of the fact that records of Captain Viger's work assignments would be contained in his personnel file.

15. It is found that Captain Viger is a current or former employee of the Department of Correction.

16. It is found that the complainant is an individual committed to the custody or supervision of the Commissioner of Correction.

17. It is therefore concluded that §18-101f, G.S., bars disclosure of the requested records of work assignments to the complainant.

18. Even if Captain Viger's work assignments were only in a file that was not a personnel or medical or similar file, §1-210(b)(18)(H), G.S., provides that disclosure is not required of "[l]ogs or other documents that contain information on the ... assignment of ... staff at correctional institutions."

19. It is found that Captain Viger's work assignments contain information on the assignment of staff at correctional institutions.

20. It is therefore concluded that Captain Viger's work assignments are also exempt from disclosure pursuant to §1-210(b)(18)(H), G.S.

21. With respect to the complainant's April 30, 2014 request for Captain Viger's signed acknowledgement, as described in paragraph 4, above, it is found that that record does not exist.

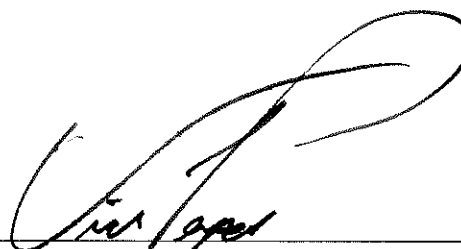
22. With respect to the complainant's first May 1, 2014 request, as described in paragraph 5, above, for certain unit directives, forms and attachments corresponding to certain Administrative Directives, it is found that those records do not exist.

23. With respect to the complainant's second May 1, 2014 request, as described in paragraph 6, above, for certain Administrative Directives, it is found that the respondents provided those records to the complainant.

24. It is concluded, therefore, that the respondents did not violate the FOI Act as alleged.

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.

A handwritten signature in black ink, appearing to read "Victor R. Perpetua", written over a horizontal line.

Victor R. Perpetua  
as Hearing Officer