



FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2014-532

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

June 30, 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, July 22, 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 July 10, 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 July 10, 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 **fifteen (15) copies** be filed **ON OR BEFORE July 10, 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: Jermaine Little
James Neil, Esq.
cc: Craig Washington

2015-06-30/FIC# 2014-532/Trans/wrbp/LFS/VB

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jermaine Little,

Complainant

against

Docket #FIC 2014-532

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

Respondents

June 30, 2015

The above-captioned matter was heard as a contested case on June 26, 2015, 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. It is found that on July 20, 2014, the complainant requested a copy of a form that he signed on July 4, 2014, indicating that he did not fear for his safety while in general population in Osborn Correctional Institution.
3. It is found that on July 28, 2014, the complainant sent an angry note to his FOI liaison, accusing him of "playing this game" by not responding to his request within four business days.
4. It is found that on the same date, the FOI liaison told the complainant in writing that he had been out on vacation and so had not responded to the complainant's request. It is found that the liaison also acknowledged the complainant's request, which he said he received that same day.
5. By letter of complaint filed August 12, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by

failing to provide him with the record he requested. The complainant requested the imposition of civil penalties.

6. 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.

7. 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.

8. 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.”

9. It is concluded 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., to the extent such records exist.

10. It is found that on August 14, 2014, the complainant’s FOI liaison informed the complainant that the correctional institution had been instructed not to use the “Release to Population” form that the complainant had signed and requested, because such forms “are not department recognized ... forms. All have subsequently been destroyed and the form you signed is no longer available.”

11. It is found that the respondents no longer maintained the record requested by the complainant at the time that the respondents were prepared to comply with his request.

12. It is found that the respondents failed to prove that the record had been destroyed at the time of the complainant’s request on July 20, 2014, or even at the time of the respondents’ acknowledgment on July 28, 2014, or at any time before August 14, 2014.

13. It is found the respondents failed to prove that they were unable to comply with the complainant’s request in a prompt manner.

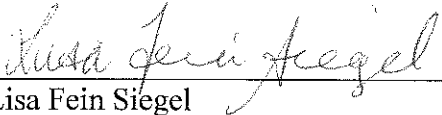
14. It is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S.

15. Based on the facts and circumstances of this matter, the Commission declines to order the imposition of a civil penalty.

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 inform the complainant as to when they received the order to destroy the "Release to Population" forms, including the form signed by the complainant, and also when such forms were, in fact, destroyed.

2. Henceforth, the respondents shall strictly comply with §§1-210(a) and 1-212(a), G.S.



Lisa Fein Siegel
as Hearing Officer