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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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Thomas Tanner,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-848

Chief, Police Department, City of Torrington; Police
Department, City of Torrington; and City of Torrington,
Respondent(s)

August 11, 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, September 9, 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 August 28, 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 August 28, 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 August 28, 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: Thomas Tanner
Raymond J. Rigat, Esq.

8/11/15/FIC# 2014-848/Trans/wrbp/VRP/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Thomas Tanner,

Complainant

against

Docket #FIC 2014-848

Chief, Police Department, City of
Torrington; Police Department,
City of Torrington; and City of
Torrington

Respondents

July 17, 2015

The above-captioned matter was heard as a contested case on July 16, 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. By letter of complaint filed November 17, 2014, the complainant appealed to the Commission, alleging that the respondents had violated the Freedom of Information ("FOI") Act by denying his request for copies of certain records, and for a fee waiver.
3. It is found that the complainant made a November 1, 2014 request to the respondent Chief for the following records for his criminal case number 13-25841:
 - a. any and all police reports as well as supplemental reports;
 - b. any and all arrest warrant applications;
 - c. any and all copies of confessions and statements of witnesses and victims;
 - d. any and all D.N.A. samples that were collected, tested and received; and
 - e. any and all other information and evidence collected for case 13-25841 as well as any and all video footage photos.

4. In his November 1, 2014 request, the complainant acknowledged that his mother had previously requested the same records, but that she had only been provided with a couple of supplemental reports and an evidence property list.

5. Also in his November 1, 2014 request, the complainant enclosed a copy of his account balance to show that he was indigent, and requested that the respondents waive any copying fees.

6. It is found that the respondents' records division responded anonymously by letter dated November 3, 2014, that it had received a request from the complainant's mother for information regarding his case, and that the "releasable" records had been provided to her.

7. It is found, however, that the complainant himself did not have possession of the records that were provided to his mother, and in any event believed that the records provided to her were incomplete; hence, his November 1, 2014 request.

8. It is found that the respondents did not provide any records to the complainant at his correctional institution in response to his November 1, 2014 request.

9. 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.

10. 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.

11. 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."

12. It is concluded that, to the extent the requested records exist, they are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

13. At the hearing, the respondents made no claim that they did not maintain the requested records, or that the requested records were exempt from disclosure.

14. Section 1-212(d)(1), G.S., provides: "The public agency shall waive any fee provided for in this section when ... [t]he person requesting the records is an indigent individual...."


15. The respondents did not contest the complainant's status as an indigent person.

16. It is therefore concluded that the respondents violated the FOI Act by failing to provide the requested records to the complainant at his correctional institution, free of charge.

17. At the hearing, the respondents, as a gesture of good faith, pledged to provide copies of the requested records to the complainant at his correctional institution the day following the hearing in this matter.

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

1. If they have not already done so, the respondents shall forthwith provide a copy of the requested records to the complainant, free of charge.



Victor R. Perpetua
as Hearing Officer