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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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Kacey Lewis,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-899

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

Respondent(s)

October 28, 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, November 18, 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 November 6, 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 November 6, 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 November 6, 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: Kacey Lewis
James Neil, Esq.
cc: Craig Washington

2015-10-28/FIC# 2014-899/Trans/wrbp/VRP/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kacey Lewis,

Complainant

against

Docket #FIC 2014-899

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

Respondents

October 28, 2015

The above-captioned matter was heard as a contested case on August 17 and October 16, 2015, at which times 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 December 18, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his November 18, 2014 request to inspect certain records.
3. It is found that the complainant made a November 18, 2014 request to the respondents to review and inspect records compiled by the respondents in connection with the use of restraints and/or force applied to the complainant by staff at Corrigan Correctional Institution between October 24, 2014 and October 27, 2014.
4. It is found that the respondents acknowledged the request on November 24, 2014, indicating that certain records were maintained by UConn Medical Center Correctional Managed Care, others would be provided to him, and, initially, that one was exempt from disclosure. The respondents initially demanded payment for copies of the records, but that demand was ultimately withdrawn, and the complainant withdrew any claim concerning that demand for payment.

5. The respondents provided most of the records in their custody, excepting the document for which they claimed an exemption, to the complainant for inspection on August 20, 2015, shortly after the first hearing in this matter, and nine months after the request was made.

6. After being ordered at the second, October 16, 2015 hearing in this matter to produce the remaining record for an in camera inspection, the respondents withdrew their claim of exemption for the remaining record, and provided it to the complainant for inspection on October 26, 2015, eleven months after the request had been made. The order for in camera inspection is therefore withdrawn.

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 (1) inspect such records promptly during regular office or business hours

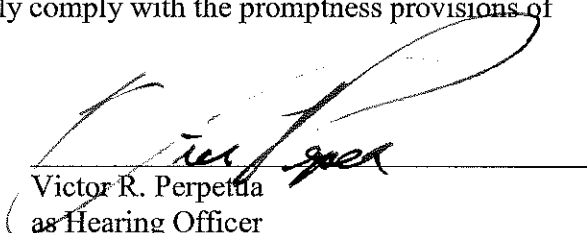
9. It is concluded that the records requested by the complainant are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

10. It is also concluded that none of the records were provided promptly, within the meaning of §1-210(a), G.S.

11. It is concluded, therefore, that the respondents violated the promptness provisions of §1-210(a), G.S.

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

1. Henceforth the respondents shall strictly comply with the promptness provisions of §1-210(a), G.S..


Victor R. Perpetua
as Hearing Officer