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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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John Kaminski,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-051

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

Respondent(s)

November 23, 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, December 16, 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 December 4, 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 December 4, 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 December 4, 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: John Kaminski  
Attorney James Neil  
cc: Craig Washington

2015-11-23/FIC# 2015-051/Trans/wrbp/TCB//VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

John Kaminski,

Complainant

against

Docket #FIC 2015-051

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

Respondents

November 23, 2015

The above-captioned matter was heard as a contested case on November 10, 2015 at which time the complainant and the 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 Anthony Sinchak v. FOIC et al, Superior Court, Judicial District of Hartford, Docket No. CV 03-0826293, (corrected order dated January 27, 2004, Sheldon, J.).

For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2015-324, John Kaminski v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction.

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 December 29, 2014, the complainant made a request to the respondents for a copy of certain records that included a November 20, 2014 video recording showing him being transported between the prison and a medical facility (hereinafter "the November 20, 2014 video recording").

3. By letter dated January 14, 2015 and filed on January 20, 2015, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his request for a copy of the November 20, 2014 video recording.

4. Section 1-200(5), G.S., provides:

“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, 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.

5. 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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

6. 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.”

7. It is found that the requested record, to the extent it exists, is a public record within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that the respondents informed the complainant that the video recordings are only retained for thirty days and that the November 20, 2014 video recording had been erased and no longer existed.

9. At the hearing on this matter, the complainant contended that the surveillance system the respondents use has the capacity to save and store recordings into infinity and that the video recording he requested still exists. The complainant also contended that because he filed a motion with the Superior Court that the November 20, 2014 video recording be “secured,” that it would have been in the respondents’ interest to maintain it.

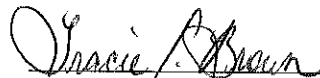
10. However, it is found that the respondents did not receive an order or any other directive from the Superior Court to maintain the November 20, 2014 video recording, and that they did not receive a request from the complainant to preserve it.

11. It is found that the November 20, 2014 video recording was erased pursuant to the respondents' thirty day retention policy and no longer exists.

12. Therefore, it is concluded that the respondents did not violate the disclosure provisions of 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.

  
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Attorney Tracie C. Brown  
as Hearing Officer