



# FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2015-457

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

February 11, 2016

## 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 9, 2016**. 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 February 26, 2016**. 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 February 26, 2016**. **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 February 26, 2016**, 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: Antwan Sease  
Attorney James Neil

2016-02-11/FIC# 2015-457/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Antwan Sease,

Complainant

against

Docket #FIC 2015-457

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

Respondents

December 2, 2015

The above-captioned matter was heard as a contested case on November 30, 2015, at which time the complainant and the 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, 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, by application dated June 25, 2015, the complainant made a request to the respondents for copies of all emails “from May 21, 2010 through December 31, 2012 about or relating to inmates Quan Morgan and Michael Lee” (the “requested records”).
3. It is found that, by handwritten notation on the request application, also dated June 25, 2015, the respondents acknowledged and denied the request for the requested records.
4. By undated letter of complaint filed on July 13, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act (“FOIA”) by failing to comply with the request described in paragraph 2, above.
5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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 . . . (3) receive a copy of such records in accordance with 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record.”

8. It is found that, to the extent that the respondents maintain the records described in paragraph 2, above, such records are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

9. At the hearing, the respondents claimed the exemption at §1-210(b)(18), G.S., as the basis for withholding the requested records. Section 1-210(b), G.S., provides, in relevant part, that:

“[n]othing in the Freedom of Information Act shall be construed to require disclosure of . . . [r]ecords, the disclosure of which the Commissioner of Correction . . . has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction . . . .”

10. In Commissioner, Department of Correction v. Freedom of Information Commission, Superior Court, Judicial District of New Britain at New Britain, Docket No. CV074015438 and CV084016766 (November 3, 2008) (2008 Conn. Super. 2724), the court concluded that the FOIC’s role in reviewing the DOC Commissioner’s safety risk determination is to determine “whether the [commissioner’s] reasons were pretextual and not bona fide, or irrational.”

11. In Commissioner, Department of Correction v. Freedom of Information Commission, Superior Court, Judicial District of New Britain at New Britain, Docket No. CV106006278 (April 5, 2012), the court reversed the Commission’s decision that the DOC failed to prove that disclosure of victim impact statements to the particular inmate requestor, as opposed to inmates in general, may pose a safety risk, pursuant to §1-210(b)(18), G.S. The court ruled that to satisfy

their burden under the statute, the DOC need only give “reasonable reasons...drawn from observations about inmates in general, as opposed to a specific inmate making the request.”

12. It is found that both Quan Morgan and Michael Lee testified at the criminal trial of the complainant in June 2010. The complainant testified at the Commission hearing to his own belief that, subsequently, both Quan Morgan and Michael Lee, while themselves incarcerated, contacted the police. By working through officials of the respondent Department, the complainant believes Quan Morgan and Michael Lee alleged that additional crimes were perpetrated by the complainant. The complainant stated that his motive for seeking access to the requested records was to determine whether perjury had been committed.

13. The respondents’ witness testified that the DOC has a general policy of prohibiting inmates from obtaining information about other inmates, due to safety and security concerns. Specifically, in the present case, the respondents are concerned about the safety of both Quan Morgan and Michael Lee. The respondents’ witness further testified that it was reasonable to assume that the complainant would be highly displeased with both Quan Morgan and Michael Lee if he confirmed that they had provided information to law enforcement which could result in the complainant receiving an additional criminal conviction or convictions.

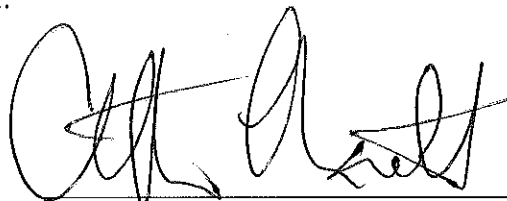
14. Applying the legal standard set forth in the two Commissioner decisions, cited in paragraphs 10 and 11, above, it is concluded that the reasons given by the respondents at the hearing in this matter regarding disclosure of the requested records are not “pretextual,” or “irrational.” While the complainant was courteous and low key at the Commission hearing, the 2012 Commissioner decision (see paragraph 11) expressly states that reasonable reasons can be based on inmates in general, rather than the specific inmate making the request.

16. Based upon the evidence produced at the hearing, it is concluded that the Commissioner of Correction has reasonable grounds to believe that disclosure of the requested records may result in a safety risk, within the meaning of §1-210(b)(18), G.S. See Docket #FIC 2014-439, Lopez v. Department of Correction.

17. Accordingly, it is further concluded that the requested records are exempt from disclosure pursuant to §1-210(b)(18)(G), G.S., and that the respondents did not violate the FOIA by withholding such records from 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 dismissed.



Clifton A. Leonhardt  
as Hearing Officer