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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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Michael Place,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-447

Chief, Police Department, Town of Putnam; and
Police Department, Town of Putnam,
Respondent(s)

June 5, 2012

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, June 27, 2012**. 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 June 15, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE June 15, 2012**. 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 **fourteen (14) copies** be filed **ON OR BEFORE June 15, 2012**, 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: Michael Place
William H. St. Onge, Esq.

6/5/12/FIC# 2011-447/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Michael Place,

Complainant

against

Docket #FIC 2011-447

Chief, Police Department of the Special
Services District of the Town of Putnam;
and Police Department of the Special
Services District of the Town of Putnam,¹

Respondents

May²⁹, 2012

The above-captioned matter was heard as a contested case on May 10, 2012, 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 28, 2011, the complainant requested copies of records pertaining to a criminal incident that occurred on July 17, 2008 involving the complainant.
3. It is found that the respondents acknowledged the complainant's request on August 2, 2011, and stated that they intended to comply with his request.
4. By letter of complaint filed August 29, 2011, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records he requested. At the hearing in this matter, the complainant requested the imposition of civil penalties.
5. Section 1-200(5), G.S., defines "public records" as follows:

¹ The caption reflects the correct name of the respondents.

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.

6. 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.

7. 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."

8. 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.

9. It is found that subsequent to the complainant's appeal to the Commission, the respondents provided more than 100 pages of records to him.

10. At the hearing in this matter, the complainant testified that he was missing: a) an initial report from a certain sergeant; b) a copy of an e-mail and attached photographs sent by a detective; and c) records of local phone calls on July 17 and 18, 2011.

11. With respect to the "initial report," it is found that the sergeant did not file an "initial" report and that the respondents provided the complainant with the sergeant's only report, which was "supplemental" to the ongoing investigatory reports.

12. It is concluded that the respondents did not violate the FOI Act as alleged in paragraph 10.a, above.

13. With respect to the e-mail and photographs, it is found that in 2009, the respondents upgraded their computer system and replaced their server. It is found that the e-mail sought by the complainant was created in 2008 on a detective's individual computer, without back-up, and that such computer was destroyed when the respondents obtained new computers in 2009.

14. It is found, based on the respondents' after-filed exhibit, that after the hearing in this matter, the respondent chief made a copy of the hard copies of the digital photographs that had been attached to the e-mail referenced in paragraph 13, above. It is found that the chief sent such photograph copies to the complainant.

15. It is concluded that the respondents violated the FOI Act by failing to provide the complainant with such copies in a more prompt manner.

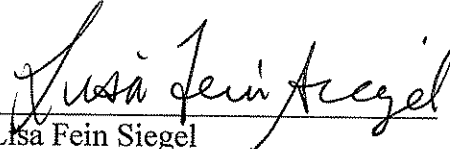
16. With respect to the local phone calls, it is found that the respondents do not maintain records detailing a list of incoming and outgoing telephone numbers, and that their phone bill did not itemize local calls made or received. It is found that the respondents provided the complainant with six CDs of phone calls between the respondents and Adult Probation Services on July 17 and 18, 2008 that were the subject of another request by the complainant.

17. It is concluded that the respondents did not violate the FOI Act as alleged in paragraph 10.c, above.

18. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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

1. The respondents shall strictly comply with the promptness requirements of the FOI Act.


Lisa Fein Siegel
as Hearing Officer