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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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Vernon Horn,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-656

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

June 20, 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, July 11, 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 29, 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 29, 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 29, 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: Vernon Horn
James E. Neil, Esq.
cc: Kristine Barone

2012-06-20/FIC# 2011-656/Trans/wrbp/KKR/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Vernon Horn,

Complainant

against

Docket #FIC 2011-656

Director of Security, State of Connecticut,
Department of Correction; and State of
Connecticut, Department of Correction,

Respondents

June 8, 2012

The above-captioned matter was heard as a contested case on May 25, 2012, 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 letter dated November 13, 2011, the complainant made a request to the respondents for copies of "all documentation regarding investigation (SD 11-49) conducted at Corrigan-Radgowski CC."
3. It is found that, by letter dated November 22, 2011, the respondents informed the complainant that the requested records, pertaining to Security Division Investigation SD 11-49, are exempt from disclosure, based on safety and security concerns, pursuant to Public Act 99-156, sections 2 and 18.
4. By letter of complaint dated November 29, 2011, and filed December 6, 2011, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request described in paragraph 2, above.
5. At the hearing in this matter, the respondents claimed the requested records, described in paragraphs 2 and 3, above, are exempt from disclosure pursuant to §18-101f, G.S.

6. 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.

7. 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.

8. 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.”

9. It is found that the records described in paragraphs 2 and 3, above, are public records.

10. Section 18-101f, G.S., provides, in relevant part:

A personnel or medical file or similar file concerning a current or former employee of the Department of Correction...including, but not limited to, a record of a security investigation of such employee by the department...shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200, to any individual committed to the custody or supervision of the Commissioner of Correction....(Emphasis added).

11. It is found that the requested records pertain to an investigation into allegations of corruption involving several Department of Correction (DOC) employees. It is found that such investigation was conducted by the DOC’s security division and that the records thereof are records of a “security investigation,” within the meaning of the statute. It is further found that the complainant is an individual committed to the custody of the Commissioner of Correction.

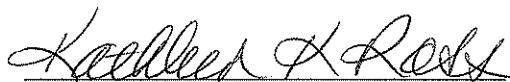
12. Accordingly, it is concluded that the records, described in paragraphs 2 and 3, above, are exempt from disclosure pursuant to §18-101f, G.S.

13. Based upon the foregoing, it is unnecessary for the Commission to consider the respondents' additional claim of exemption, noted in paragraph 3, above, which, presumably, was intended as a reference to §1-210(b)(18), G.S.¹

14. Thus, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.



Kathleen K. Ross
As Hearing Officer

FIC2011-656/hor/kkr/06082012

¹ Although Public Act 99-156, cited by the respondents, added section (18), to §1-210(b), G.S., and §1-210(c), G.S. the references by the respondents to the sections of the public act are incorrect.