



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Joseph Provost,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-179

Robert Hoffman, Chief, Police Department,
Town of Plainfield; Lynda Van Auken, Records
Supervisor, Police Department, Town of
Plainfield; and Police Department,
Town of Plainfield,

Respondent(s)

September 28, 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, October 24, 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 October 12, 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 October 12, 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 October 12, 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: Richard Cody, Esq.
Holly Quackenbush Darin

9/28/12/FIC# 2012-179/Trans/wrbp/LFS//PSP

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Joseph Provost,

Complainant

against

Docket #FIC 2012-179

Robert Hoffman, Chief, Police
Department, Town of Plainfield; Lynda
Van Auken, Records Supervisor, Police
Department, Town of Plainfield; and
Police Department, Town of Plainfield,

Respondents

September 27, 2012

The above-captioned matter was heard as a contested case on September 21, 2012, at which time the complainant and respondents appeared and presented testimony, exhibits and argument on the complaint.

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 March 23, 2012, the complainant requested a copy of audio, video, and written records created or collected by the respondents during certain hours on March 13, 2012 and March 20, 2012.
3. It is found that on March 26, 2012, the respondent Records Supervisor acknowledged the complainant's request with an unsigned letter stating that they will respond as quickly as possible with any releasable information and setting out the procedure for payment of the fee for copies.
4. By letter of complaint filed March 30, 2012, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with a copy of the records he requested. The complainant requested the imposition of civil penalties.
5. 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.

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. At the hearing in this matter, the complainant stated that the respondents had complied satisfactorily with his request for audio and written records. Accordingly, the complainant is no longer pursuing his appeal to this Commission with respect to such records.

10. With respect to the video records, it is found that at the time of the complainant's request, the respondents maintained the video recordings only for 24 hours, after which time the recordings were automatically taped over.

11. It is found that on March 29, 2012, the complainant had a telephone conversation with the respondent Records Supervisor, who gave the complainant incorrect information about the length of time that the respondents maintain their video recordings.

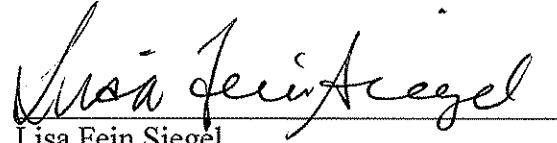
12. It is found that in fact the respondents did not maintain the video recordings requested by the complainant at the time of his request, which was more than 24 hours after the days in question.

13. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

14. It is found that the respondents subsequently, and as a result of the complainant's request for records, changed the length of time that the video records are maintained from 24 hours to 29 to 31 days.

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.


Lisa Fein Siegel
as Hearing Officer

FIC2012-179/HOR/LFS/09272012