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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

Ira Alston,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-883

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

August 17, 2016

Transmittal of Proposed Final Decision Dated June 28, 2016

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 dated June 28, 2016, 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, September 14, 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 September 2, 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 September 2, 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 September 2, 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: Ira Alston
Attorney James Neil
CC: Craig Washington

FIC# 2015-883/Trans/wrbp/LFS/VDH/2016-08-16

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer on
Remand

Ira Alston,

Complainant

against

Docket #FIC 2015-883

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

Respondents

June 28, 2016

The above-captioned matter was scheduled to be heard as a contested case on March 10, 2016, at 9:30 a.m. The complainant, who is incarcerated, was notified and was scheduled to appear 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.). This matter was consolidated for hearing with Docket #FIC2105-882, Ira Alston v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction. The complainant failed to appear for the hearing.

A Report of Hearing Officer recommending dismissal of the complaint for failure to appear was issued on March 10, 2016. The Commission considered such report at its regular meeting of April 13, 2016. At such time, the Commission remanded the matter to the hearing officer to permit the complainant to appear and present evidence. A remanded hearing was conducted on May 24, 2016, at which time the complainant and all the respondents appeared, stipulated to certain facts and presented testimony, an exhibit, 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)(A), G.S.
2. It is found that on November 30, 2015, the complainant requested records “revealing the date and time that Deputy Warden Mulligan was at work at Northern Correctional Institution for the months of June, July and September 2015.”
3. It is found that the respondents denied the complainant’s request based on §1-210(b)(18)(G), G.S.

4. By letter filed December 23, 2015, the complainant appealed to this 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, described in paragraph 2, above.

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., to the extent such records exist.

9. It is found that the complainant did not want to receive a copy of the deputy warden’s time sheet. It is found that the complainant sought in particular the “lobby logbook” or similar records for Northern C.I. that would reveal when the deputy warden signed in to enter the building.

10. Section 1-210(b)(18), G.S., provides in relevant part, that “[n]othing in the Freedom of Information Act shall be construed to require disclosure of:

Records, 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.... Such records shall include, but are not limited to:

(A) Security manuals, including emergency plans contained or referred to in such security manuals;

(B) Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;

(C) Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;

(D) Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner, security procedures, emergency plans or security equipment;

(E) Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;

(F) Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;

(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and

(H) Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers.

(Emphasis added.)

11. It is found that the respondent commissioner believes that disclosure of the lobby logbook or similar records would reveal the comings and goings of a Department of Correction official, and may provide information about when DOC officials are present in the institution, thereby compromising the safety and security of inmate and staff.


12. It is found, based upon the evidence produced at the hearing in this matter, that the Commissioner of Correction has reasonable grounds to believe that disclosure of the lobby logbook or other similar records revealing the time and date that the deputy warden worked at Northern Correctional Institution may result in a safety risk, within the meaning of §1-210(b)(18)(G), G.S.

13. It is concluded that §1-210(b)(18)(G), G.S., exempts the records requested by the complainant from mandatory disclosure.

14. It is concluded that the respondents did not violate the FOI Act as alleged.

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