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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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James Torlai,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-360

Commissioner, State of Connecticut, Department of
Emergency Services and Public Protection, Division
of State Police; and State of Connecticut,
Department of Emergency Services and Public
Protection, Division of State Police,
Respondent(s)

December 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, January 23, 2013**. 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 January 11, 2013**. 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 January 11, 2013**. **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 January 11, 2013**, 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: James Torlai
Terrence M. O'Neill, AAG

2012-12-20/FIC# 2012-360/Trans/wrbp/LFS//TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

James Torlai,

Complainant

against

Docket #FIC 2012-360

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection, Division of State Police;
and State of Connecticut, Department of
Emergency Services and Public Protection,
Division of State Police,

Respondents

December 19, 2012

The above-captioned matter was heard as a contested case on December 7, 2012, at which time the complainants and the respondents appeared, stipulated to certain facts 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 June 4, 2012, the complainant requested "information related to all DUI arrests made by the State Police Troop L in May of 2012."
3. It is found that the respondents did not reply to the complainant's request by July 1, 2012.
4. By letter postmarked July 2, 2012, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with the records he requested.
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, ...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 (1) inspect such records promptly during regular office or business hours...

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 complainants are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

9. It is found that on August 17, 2012, one week after receiving notice from the Commission of the complainant's appeal, the respondents provided 15 pages of records to the complainant, and requested payment of the statutory fee. It is found that the records provided to the complainant were electronic arrest summaries of the people arrested by Troop L for DUI during May, 2012.

10. It is found that on September 13, 2012, the complainant sent a letter to the respondents in which he enclosed payment and informed the respondents that he believed compliance to be incomplete in that they failed to provide a report of each DUI arrest in May. It is found that the complainant enclosed a screen shot printed from the State of Connecticut Judicial Branch website containing arraignment information on a person arrested for DUI in May by Troop L. It is found that the respondents did not include records concerning such person in the records they provided to the complainant on August 17, 2012.

11. It is found that the complainant also questioned the redactions to one of the records provided to him on August 17, 2012.

12. It is found that on December 7, 2012, which was the day of the hearing in this matter, the respondents provided the complainant with the records concerning the person referenced in the Judicial Branch docket screen shot and also specified the exemptions to support the redactions to the record previously provided to the complainant.

13. The only issue to be adjudicated at the hearing in this matter was whether the respondents' compliance was prompt.

14. It is found that the records provided to the complainant on December 7, 2012, were Computer Aided Dispatch (CAD) notes relating to the arrest of the person referenced in the screen shot. It is found that such notes were not maintained with the arrest summary records provided to the complainant on August 17, 2012.

15. It is found that during the pendency of the complainant's request, the respondents' Legal Affairs Office, which handles all of the requests for the respondents' records, experienced an unexpected and significant staff shortage. It is found that the number of pending records requests during that time was high – numbering approximately 800 at any given time.

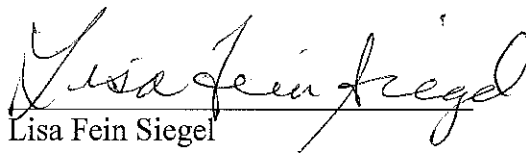
16. The respondents' witness, who is a paralegal in the Legal Affairs Office, testified credibly about the thoroughness of her search for the missing records, described in paragraph 10, above. It is found that her search was diligent.

17. The Commission is sympathetic to the respondents' challenges and is aware that the complainant has made many requests for the respondents' records. Nevertheless, although the respondents' witness's actions were reasonable under the circumstances, it is found that the three-month delay in providing the computer printout was too long.

18. Accordingly, it is concluded that the respondents violated the FOI Act by failing to provide all of the records that the complainant requested in a prompt manner.

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

1. Henceforth, the respondents shall comply promptly with the FOI Act.


Lisa Fein Siegel
as Hearing Officer