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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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Jamal Black,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2011-413

Warden, State of Connecticut, Department of
Correction, MacDougall-Walker Correctional
Institution; and State of Connecticut,
Department of Correction,
Respondent(s)

May 31, 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: Jamal Black
James Neil, Esq.
cc: Kristine Barone

5/31/12/FIC# 2011-413/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jamal Black,

Complainant

against

Docket #FIC 2011-413

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

Respondents

May 14, 2012

The above-captioned matter was heard as a contested case on March 27, 2011, 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 10, 2011, the complainant requested a copy of “an incident report, a CN61005 inmate property monthly disposal report, and a CN61002 inmate property status and receipt” concerning his “stolen Nintendo D.S. game system and video games” that were confiscated on January 27, 2011 by a correctional officer.
3. It is found that the respondents acknowledged receipt of the complainant’s request on July 15, 2011.
4. By letter filed August 10, 2011, 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.
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. It is found that the complainant's confiscated property was referenced in a related disciplinary report against another inmate. It is found that the disciplinary report served as a receipt of property in lieu of the CN61005 and CN61002 forms.

10. It is found that the CN61005 and CN61002 do not exist for the property confiscated from the inmate.

11. With respect to the incident report, it is found that the respondents offered to provide such record to the complainant on March 22, 2012.

12. It is found that the complainant first requested the records described paragraph 2, above, one year ago, in March 2011.

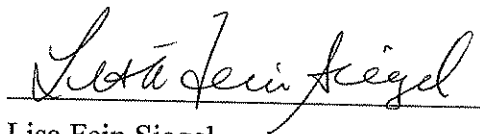
13. It is found that by the time the respondents offered to provide the incident report to the complainant, he had already received a copy from another inmate.

14. It is found that the respondents failed to provide the incident report to the complainant in a prompt manner.

15. It is concluded that the respondents violated the promptness provisions of the FOI Act.

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 strictly comply with the promptness provisions of §§1-210(a) and 1-212(a), G.S.

A handwritten signature in cursive script, reading "Lisa Fein Siegel", written over a horizontal line.

Lisa Fein Siegel
as Hearing Officer

FIC2011-413HOR/LFS/051012