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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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Richard Stevenson,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2013-240

B. Bouffard, FOI Liaison, State of Connecticut,  
Department of Correction; and State of  
Connecticut, Department of Correction,  
Respondent(s)

December 3, 2013

### 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 8, 2014**. 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 December 13, 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE December 13, 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 December 13, 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: Richard Stevenson  
James Neil, Esq.  
cc: Kristine Barone

2013-12-03/FIC# 2013-240/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Richard Stevenson,

Complainant

against

Docket #FIC 2013-240

B. Bouffard, FOI Liaison, State of  
Connecticut, Department of Correction;  
and State of Connecticut, Department of  
Correction,

Respondents

October 31, 2013

The above-captioned matter was heard as a contested case on September 26, 2013, at which time the complainant and the respondents appeared, stipulated to certain facts 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, by three letters each dated March 27, 2013, the complainant requested that the respondents permit him to review or copy various records discussed at paragraph 5 below.
3. It is found that the respondents acknowledged the request and then subsequently declined to provide access to the requested records.
4. By letter dated April 14, 2013 and filed with the Commission on April 18, 2013, the complainant alleged that the respondents violated the Freedom of Information ACT ("FOIA") by failing to provide him with access to the records described in paragraph 2, above. The complainant also requested the assessment of civil penalties against the named respondent.
5. On September 24, 2013, the respondent Department filed with the Commission a letter dated September 19, 2013 from the complainant to the Commission which

withdrew the complainant's claims for records concerning: 1) the University of Connecticut medical contract; and 2) commissary invoices. A third claim remained pending for all records relating to "the investigation for organizing a boycott of the commissary and telephones" that resulted in a number of prisoners being taken to segregation at MacDougall-Walker Correctional Institution on November 11, 2011 (the "requested records").

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 section 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 section 1-212.

8. Section 1-212(a), G.S., provides in relevant part that "any 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 to the extent the respondents maintain the requested records, such records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. At the hearing, the respondents contended that the requested records are exempt from mandatory disclosure pursuant to §1-210(b)(18), G.S., because the records pertain to safety and security information which is not made available to the inmate population. The respondents also contended that the records of the exact same investigation were the subject of Docket #FIC 2013-048; Shawn Crocker v. CTO Ilvento, FOI Coordinator, State of Connecticut, Department of Correction, Corrigan-Radgowski Correctional Center; and State of Connecticut, Department of Correction, wherein the Commission dismissed the complaint, also based on §1-210(b)(18), G.S. The

Commission takes administrative notice of the decision and all evidence in Docket #FIC 2013-048.

11. Section 1-210(b)(18), G.S., provides in relevant part that disclosure is not required of:

[r]ecords, 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 or Whiting Forensic Division facilities. 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....

12. It is found that the requested records contain information pertaining to an "impeding order incident" at MacDougall-Walker Correctional Institution. It is further found that the requested records include the names of informants, statements from facility inmates and staff, and specific information concerning intelligence gathering techniques used by the respondents.

13. It is further found that disclosure of the requested records to the inmate population would create a safety and security risk by disclosing specific information and intelligence gathering techniques used by the respondents during safety and security investigations in their facilities. Disclosure of the intelligence gathering techniques would render the techniques useless.

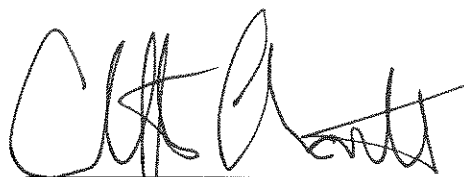
14. Based on these findings, it is concluded that the Commissioner of the respondent Department had reasonable grounds to believe that disclosure of the requested records may result in a safety risk, including the risk of harm to inmates and staff of a correctional institution, within the meaning of §1-210(b)(18), G.S. It is concluded that the requested records are permissibly exempt pursuant to this subsection.

15. Based on the foregoing, it is concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., when they declined to provide the complainant access to the requested records.

16. There being no violation of the FOIA, the Commission declines to consider the complainant's request for civil penalties against the respondents.

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

1. The complaint is hereby dismissed.



Clifton A. Leonhardt  
as Hearing Officer