



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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David Taylor,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-264

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

February 4, 2014

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, March 12, 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 February 28, 2014**. 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 February 28, 2014**. 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 February 28, 2014**, 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: David Taylor
James Neil, Esq.
cc: Kristine Barone

2/4/14/FIC# 2013-264/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Taylor,

Complainant

against

Docket #FIC 2013-264

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

Respondents

February 4, 2014

The above-captioned matter was heard as a contested case on December 4, 2013, 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 March 28, 2013, the complainant requested copies of all invoices concerning the applicant's detention under the authority of federal law, copies of agreements between the United States immigration authorities and the respondents, and copies of any records showing that the complainant "is being detained and treated pursuant to" such agreements and detainers.
3. Section 1-206, G.S., provides:
 - (a) Any denial of the right to inspect or copy records provided for under section 1-210 shall be made ... within four business days of such request ... Failure to comply with a request to so inspect or copy such public record within [four] business days shall be deemed to be a denial.

(b) (1) Any person denied the right to inspect or copy records under section 1-210 or wrongfully denied the right to attend any meeting of a public agency or denied any other right conferred by the Freedom of Information Act may appeal therefrom to the Freedom of Information Commission, by filing a notice of appeal with said commission. A notice of appeal shall be filed not later than thirty days after such denial[.]

4. It is found that the respondents neither acknowledged nor complied with the complainant's request within four business days, which was April 3 or 4, 2013 (depending on whether Good Friday is considered to be a business day).

5. By letter of complaint filed May 1, 2013, 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.

6. It is found that the complainant filed his complaint within the time period set forth in §1-206(b), G.S.

7. 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.

8. 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.

9. 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."

10. It is concluded that the records requested by the complainant, to the extent that they exist, are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

11. It is found that the complainant is in the custody of the respondents pursuant to a sentence of incarceration imposed by a Connecticut court. It is found that the U.S. government

lodged an immigration detainer with the respondents to be served on the complainant if and when he becomes eligible for release from the respondents' custody.

12. It is found that the complainant possesses a copy of such detainer.

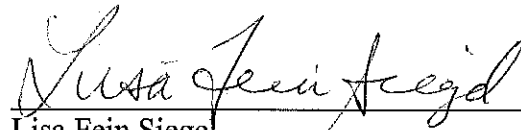
13. It is found that the complainant also possesses a copy of the 2012 contract between the United States and the respondents concerning confinement of federal immigration detainees in which the federal government agreed to pay the respondents for such services.

14. It is found that the complainant is not in the respondents' custody pursuant to a federal detainer, so there are no copies of invoices to provide to him in response to his request for records, described in paragraph 2, above.

15. It is found that the respondents do not maintain any other records responsive to the complainant's request.

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