



FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2013-265

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

February 6, 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: Chywon Wright
James Neil, Esq.
cc: Kristine Barone

2014-02-06/FIC# 2013-265/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Chywon Wright,

Complainant

against

Docket #FIC 2013-265

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 January 6, 2014, 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 8, 2013, the complainant requested copies of:
 - a. all communications from four named administrative officials of the respondents to the complainant, and copies of all communications from the complainant to such individuals from December 1, 2010 through August 31, 2011;
 - b. all inmate administrative remedy forms completed by the complainant at the Northern Correctional Institution between December 1, 2010 and May 31, 2011; and
 - c. all disciplinary reports and incident reports concerning the February 16, 2011 inmate-on-inmate assault.
3. It is found that on April 4, 2013, the complainant reiterated his request of March 8, 2013, described in paragraph 2, above.

4. 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 copies 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. With respect to the complainant’s request for copies of communications to and from four administrative officials and the complainant, it is found that the respondents maintain no records responsive to the complainant’s request. Specifically, it is found that any response from any of the officials to the complainant’s Inmate Request in which the complainant requested a change of cell assignment would have been written on the request form itself and returned to the complainant. It is found that the respondents do not maintain records responsive to the complainant’s request.

10. With respect to the complainant’s request for copies of administrative remedy forms completed by the complainant, as described in paragraph 2.b, above, it is found that the respondents retrieved such records from Northern Correctional Institution and provided them to the complainant at McDougal-Walker Correctional Institution on June 7, 2013.

11. With respect to the complainant’s request for copies of disciplinary and incident reports pertaining to an assault that occurred on February 16, 2011, as described in paragraph 2.c, above, it is found that the complainant is not the transgressor in such assault and, therefore,

was not the person disciplined. The respondents claim §1-210(b)(18), G.S., exempts from disclosure any incident and disciplinary records resulting from the assault.

12. 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:

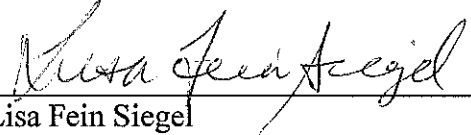
Records, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction....

13. It is found that the Commissioner of Correction has reasonable grounds to believe that disclosure of incident and disciplinary reports against a perpetrator of an inmate-on-inmate assault may result in a safety risk, within the meaning of §1-210(b)(18), G.S.

14. It is concluded, therefore, that the respondents did not violate §1-210(a) and §1-212(a), G.S., by withholding such records from the complainant.

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