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# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission · 18-20 Trinity Street, Suite 100 · Hartford, CT 06106  
Toll free (CT only): (866)374-3611 / Tel: (860)566-5682 Fax: (860)566-6474 · www.state.ct.us/foi/ · email: foi@po.state.ct.us

David Osuch,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2014-543

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

Respondent(s)

June 3, 2015

### 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 24, 2015**. 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 12, 2015**. 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 June 12, 2015**. **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 **fifteen (15) copies** be filed **ON OR BEFORE June 12, 2015**, 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 Osuch  
James Neil, Esq.

2015-06-03/FIC# 2014-543/Trans/wrbp/VRP//VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Osuch,

Complainant

against

Docket #FIC 2014-543

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

Respondents

May 29, 2015

The above-captioned matter was heard as a contested case on March 30, 2015, 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. By letter of complaint filed August 14, 2014, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his August 1, 2014 request to review his master file.
3. It is found that the complainant made an August 1, 2014 request to the respondents to review his master file.
4. It is found that the complainant delivered his request by depositing it in the appropriate mail box in his correctional facility, addressed to the warden.
5. It is found that, in the ordinary course of the respondents' business, the complainant's request should have been forwarded from the warden's office to the respondents' FOI liaison.

6. It is found that the respondents' FOI liaison never personally received the request, which should have been forwarded to her from the warden's office.

7. It is found that the complainant took the appropriate steps to deliver his request, by depositing it in the equivalent of a mailbox, and that the respondents are therefore deemed to have received it.

8. 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.

9. 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 ....

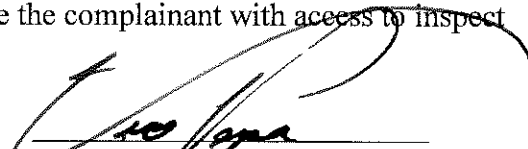
10. It is concluded that the requested file is a public record within the meaning of §§1-200(5) and 1-210(a), G.S.

11. It is found that the complainant made a request for records, appropriately delivered it, and that the respondents, even if inadvertently, did not provide access to the records.

12. It is therefore concluded that the respondents technically violated the FOI Act by failing to provide the complainant with access to the requested records.

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

1. The respondents shall forthwith provide the complainant with access to inspect his master file.

  
Victor R. Derpétua  
As Hearing Officer