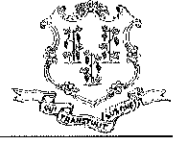


Since 1975



FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2014-707

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

Respondent(s)

July 30, 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, August 26, 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 August 14, 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 August 14, 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 August 14, 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: Juan Maldonado
James Neil, Esq.

2015-07-30/FIC# 2014-707/Trans/wrbp/TCB/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Juan Maldonado,

Complainant

against

Docket #FIC 2014-707

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

Respondents

July 27, 2015

The above-captioned matter was heard as a contested case on May 12, 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.).

For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2014-781; Juan Maldonado v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction.

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 letter dated October 20, 2014 and received on October 27, 2014, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act, by denying him access to inspect and receive copies of witness statements, and crime scene photos.

3. It is found that by letter dated June 3, 2014, to the Hartford Police Department, the complainant, who is confined in a correctional institution, made a request for thirteen categories of records.

4. Section 1-210(c), G.S., provides in relevant part that:

Whenever a public agency receives a request from any person confined in a correctional institution or facility or a Whiting Forensic Division facility, for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction or the Commissioner of Mental Health and Addiction Services in the case of a person confined in a Whiting Forensic Division facility of such request, in the manner prescribed by the commissioner, before complying with the request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person's correctional institution or facility or Whiting Forensic Division facility.

5. It is found that the respondent Department of Correction has adopted a "Resolution and Method of Compliance with the Notification Requirements of Conn. Gen. Stat. §1-210(c), G.S.," which provides in relevant part as follows:

- The public agency should deliver the documents requested by the incarcerated individual to the Department of Correction's Freedom of Information Administrator at the following address:

Department of Correction
Freedom of Information Administrator
24 Wolcott Hill Road
Wethersfield, CT 06109

- The public agency delivering the documents to the Department of Correction's Freedom of Information Administrator should first redact from such records any information the agency believes is exempt from disclosure under the Freedom of Information Act, other than exemptions pursuant to § 1-210(b)(18). Alternatively, the public agency may withhold in its entirety any record that the agency believes is exempt in its entirety.

- The Department of Correction's Freedom of Information Administrator will promptly deliver to the requesting inmate any records that the Commissioner of Correction does not reasonably believe will constitute a safety or security risk.
- In the event the Department of Correction withholds records from an inmate, the Department of Correction's Freedom of Information Administrator or the Administrator's duly authorized designee will promptly notify the requesting inmate in writing that records have been withheld, the reason they were withheld, and a general description of those records.
- Records that are withheld by the Department of Correction will be retained for the length of an appeal, if any.
- If the Department of Correction is not notified of any appeal within 60 days of the notice set forth above in Paragraph 4, then the records will be returned to the sending agency.

6. It is found that by letter dated June 23, 2014, the Hartford Police Department notified the Commissioner of Correction in the manner prescribed by the Commissioner of the complainant's request, and delivered nine pages of documents responsive to five of the thirteen categories of records requested by the complainant to the Commissioner for review pursuant to §1-210(c), G.S.¹

7. It is found that by letter dated September 19, 2014, the respondent Department of Correction (hereinafter "DOC") notified the complainant that his request to the Hartford Police Department was forwarded to the DOC. The DOC informed the complainant that it had redacted the records that were being provided under the cover of its September 19, 2014 letter and that it withheld two sets of records: witness statements and crime scene photos. It is found that the DOC offered to mail the withheld records to the complainant's attorney or a family member.

8. It is found that in connection with the same request to the Hartford Police Department, the DOC informed the complainant by letter dated November 21, 2014, that it had received and reviewed photographs sent by the Hartford Police Department. It is found that the DOC further informed the complainant that 3 photos that depicted weapons were being withheld but that all other photos were provided. It is found that the

¹ With respect to the other eight categories, it is found that no records responsive to those requests exist within the Hartford Police Department. See Docket #FIC2014-410, Juan Maldonado v. Chief, Police Department, City of Hartford; Police Department, City of Hartford; and City of Hartford.

DOC again offered to mail the withheld records to the complainant's attorney or a family member and ask that he provide an address.

9. It is found that by letter dated December 16, 2014, the complainant requested that the withheld witness statements and photographs be mailed to Attorney Teri Bayer and he provided an address.

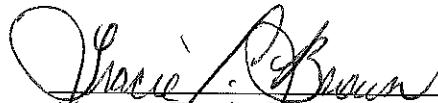
10. It is found that by letter dated December 24, 2014, the respondents forwarded the withheld records to Attorney Teri Bayer at the address provided by the complainant.

11. It is found that the DOC no longer maintains the records and that Attorney Bayer received the records.

12. It is found that, notwithstanding any claims of violation alleged by the complainant in his October 20, 2014 complaint, by consenting to have the records sent to a third party, the complainant abandoned those claims and conceded to DOC's determination that he be precluded from obtaining the records in the prison.

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.



Attorney Tracie C. Brown
as Hearing Officer