



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Kacey Lewis,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-112

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

Respondent(s)

October 21, 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, November 18, 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 November 6, 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 November 6, 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 November 6, 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: Kacey Lewis  
James Neil, Esq.  
cc: Craig Washington

2015-10-21/FIC# 2015-112/Trans/wrbp/KKR/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kacey Lewis,

Complainant

against

Docket #FIC 2015-112

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

Respondents

October 8, 2015

The above-captioned matter was heard as a contested case on October 1, 2015, at which time the complainant and the 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, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.). The above-captioned matter was consolidated for purposes of hearing with Docket #FIC 2014-915, Kacey Lewis 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 January 6, 2015, and received by the respondents on January 13, 2015, the complainant made a request to the respondents to review and inspect certain records, including emails, pertaining to a sexual harassment report and a sexual harassment retaliation report he submitted to the respondent department.
3. It is found that, by letter dated January 16, 2015, the respondents acknowledged the request, described in paragraph 2, above.
4. By letter dated February 4, 2015, and filed with the Commission on February 11, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in

paragraph 2, above. The complainant requested the imposition of a civil penalty against the respondents.

5. 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 1-218, 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 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 . . . .

7. It is found that, on January 21, 2015, the respondent department’s FOI Administrator, Counselor Supervisor Craig Washington (“Washington”), forwarded the request, described in paragraph 2, above, to the McDougall-Walker Correctional Institution (“McDougall”), where any responsive records would be maintained.

8. It is found that, on or about May 15, 2015, Washington received records responsive to such request back from McDougall, and by letter dated May 15, 2015, informed the complainant that the requested records were available and “will be provided upon receipt of payment.”

9. It is found that Washington sent the letter, described in paragraph 8, above, in error, based upon his misreading of the complainant’s request as one for copies of the records, rather than for inspection of such copies.

10. It is found that, once Washington became aware of his error, on or about August 19, 2015, he arranged for the complainant to view the records, described in paragraph 2, above. It is found that the complainant viewed such records on August 31, 2015.

11. The complainant contended that the respondents failed to promptly comply with his request to view the records, described in paragraph 2, above, as required by the FOI Act, and further questioned whether the respondents had provided the responsive emails for his inspection.

12. It is found that the respondents provided the complainant with an opportunity to inspect all of the records maintained by the respondents that are responsive to the request, described in paragraph 2, above.

13. However, it is also found that the respondents offered no evidence regarding the reason for the four month delay in providing the responsive records to Washington for the complainant's inspection.

14. It is found, therefore, that the respondents failed to promptly comply with the request, described in paragraph 2, above.

15. Accordingly, it is concluded that the respondents violated the promptness provisions in §1-210(a), G.S.

16. Based upon the facts and circumstances of this case, the Commission declines to consider the complainant's request for a civil penalty.

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

1. Henceforth, the respondents shall strictly comply with the promptness requirement in §1-210(a), G.S.



Kathleen K. Ross  
As Hearing Officer