

TO: Freedom of Information Commission
FROM: Thomas A. Hennick
RE: Minutes of the Commission's regular meeting of April 24, 2019

A regular meeting of the Freedom of Information Commission was held on April 24, 2019, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:12 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay Shaw (participated via speakerphone)
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins
Commissioner Lenny T. Winkler

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Victor R. Perpetua, Kathleen K. Ross, Valicia D. Harmon, Paula S. Pearlman, Matthew D. Reed, Danielle L. McGee, Cindy Cannata, and Thomas A. Hennick.

The Commissioners voted, 4-0, to approve the Commission's regular meeting minutes of April 10, 2019. Commissioner Winkler abstained.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2018-0295](#)

Noah Snyder v. Scott Semple, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Noah Snyder participated via speakerphone. Attorney Tracie Brown appeared on behalf of the respondents. The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commissioners unanimously voted to adopt the Hearing Officer's Report as amended.* The proceedings were recorded digitally.

[Docket #FIC 2018-0544](#)

Herbert Clark v. James P. Wardwell, Chief, Police Department, City of New Britain; Police Department, City of New Britain; City of New Britain; Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0640](#)

GerJuan Tyus v. Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

GerJuan Tyus participated via speakerphone. Attorney Brian Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0641](#)

GerJuan Tyus v. Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

GerJuan Tyus participated via speakerphone. Attorney Brian Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0642](#)

GerJuan Tyus v. Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

GerJuan Tyus participated via speakerphone. Attorney Brian Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0726](#)

GerJuan Tyus v. Peter Reichard, Chief, Police Department, City of New London; Police Department, City of New London; and City of New London

GerJuan Tyus participated via speakerphone. Attorney Brian Estep appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2018-0208](#)

David Cummings v. Elizabeth Graham, Executive Director, Administrative Services, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch

David Cummings appeared on his own behalf. Attorney Martin Libbin appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2018-0303](#)

David Cummings v. Elizabeth Graham, Executive Director, State of Connecticut, Judicial Branch; and State of Connecticut, Judicial Branch

David Cummings appeared on his own behalf. Attorney Martin Libbin appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2018-0250](#)

William Comerford v. President, Center Street Cemetery Association, Town of Wallingford; and Center Street Cemetery Association, Town of Wallingford

Attorney Craig Fishbein appeared on behalf of the complainant. Attorney Randall DiBella appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

[Docket #FIC 2018-0325](#)

Yvonne Perkins v. Chief, Police Department, City of Danbury; Police Department, City of Danbury; and City of Danbury

Yvonne Perkins appeared on her own behalf. Attorney Randall DiBella and Attorney Diane Rosemark appeared on behalf of the respondents. The Commissioners unanimously voted to remand the matter to the Hearing Officer. The proceedings were recorded digitally.

[Docket #FIC 2018-0408](#)

Yvonne Perkins v. Chief, Police Department, City of Danbury; Police Department, City of Danbury; and City of Danbury

Yvonne Perkins appeared on her own behalf. Attorney Randall DiBella and Attorney Diane Rosemark appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report. The proceedings were recorded digitally.

Victor R. Perpetua reported on pending appeals.

Colleen M. Murphy reminded Commissioners that the annual FOI Conference was scheduled for Friday May 3, 2019 at the Riverhouse in Haddam.

Colleen M. Murphy and Paula S. Pearlman reported on legislation.

The meeting was adjourned at 4:50 p.m.

Thomas A. Hennick
MINREGmeeting 04242019/tah/04252019

* See attached for amendments

AMENDMENTS

[Docket #FIC 2018-0295](#)

Noah Snyder v. Scott Semple, Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

The Hearing Officer's Report is amended as follows:

18. With respect to the requests described in paragraph 2[a], above, it is found that, in addition to conducting the search for emails, as described in paragraph 9, above, CS Washington searched for written correspondence and facsimiles. **WITH RESPECT TO TEXT MESSAGES, AT THE APRIL 24, 2019 COMMISSION MEETING, THE COMPLAINANT CLARIFIED THAT HE SOUGHT TEXT MESSAGES ONLY TO AND FROM THOSE EMPLOYEES WITH THE SPECIFIC TITLES "CFSS I, CFSS II, OR CFSS III" AND "REGIONAL INSTITUTIONAL OR DISTRICT FOOD SERVICE MANAGERS."** AT THE HEARING, CS Washington [also] testified that he does not have a mechanism by which to "capture" text messages. CS Washington testified that he contacted the respondents' telephone service provider regarding retrieving text messages, and was informed that such information would not be provided without a warrant. It is found, however, that the respondents did not provide any testimony as to whether [individual] DOC staff members searched their personal and/or [business] **DEPARTMENT-ISSUED** cellphones for any responsive text messages. It is therefore found that the respondents failed to prove that they do not maintain text messages responsive to the requests described in paragraph 2[a], above. Accordingly, it is concluded that the respondents violated the FOI Act by withholding text messages.

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

1. The respondents shall undertake [another] A search for text messages responsive to the COMPLAINANT'S RECORDS request [described in paragraph 2[a]] **AS CLARIFIED IN PARAGRAPH 18** of the findings, above, and provide the complainant with a copy of such text messages, if located [, or otherwise inform the complainant in writing of the results of such search]. **THE RESPONDENTS SHALL ALSO PROVIDE AN AFFIDAVIT TO THE COMPLAINANT AND THE COMMISSION, PREPARED BY A PERSON WITH KNOWLEDGE OF THE EFFORTS TAKEN, AND DETAILING THE SCOPE AND RESULTS OF THEIR SEARCH.**