

Since 1975



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

Gaylord Salters,
Complainant(s)

against

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

Notice of Rescheduled
Commission Meeting

Docket #FIC 2012-414

April 30, 2013

This will notify you that the Freedom of Information Commission has rescheduled the above-captioned matter, which had been noticed to be heard on Wednesday, May 8, 2013 at 2 p.m.

The Commission will consider the case at its meeting to be held at the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2:00 p.m. on Wednesday, May 22, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the April 18, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before May 10, 2013.

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: Gaylord Salters
James E. Neil, Esq.
cc: Kristine Barone

2013-04-30/FIC# 2012-414/ReschedTrans/wrbp/LFS/VDH

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Gaylord Salters,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-414

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

April 18, 2013

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, May 8, 2013**. 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 April 26, 2013**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE April 26, 2013**. 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 April 26, 2013**, 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: Gaylord Salters
James E. Neil, Esq.
cc: Kristine Barone

4/18/13/FIC# 2012-414/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Gaylord Salters,

Complainant

against

Docket #FIC 2012-414

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

Respondents

April 18, 2013

The above-captioned matter was heard as a contested case on April 4, 2013, 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.). The case was consolidated for hearing with Docket #FIC 2012-407; Gaylord Salters v. Chief, Police Department, City of New Haven; Police Department, City of New Haven; 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 on July 6, 2012, the complainant requested a copy of a certain disciplinary investigation report.
3. It is found that the Freedom of Information ("FOI") Administrator for the Department of Correction ("DOC") in Wethersfield acknowledged the complainant's request on July 13, 2012, and indicated that she forwarded the complainant's request back to the complainant's facility FOI liaison, in Cheshire.
4. By letter of complaint filed July 24, 2012, the complainant appealed to the Commission, alleging that the respondents violated the FOI Act by failing to provide him with a copy of the report 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. It is found that the FOI liaison at the Cheshire facility was out on maternity leave and did not receive the complainant's request for records, sent by the DOC Administrator on July 13, 2012, as described in paragraph 3, above.

10. It is found that in the liaison's absence, no one provided records to the complainant in response to his request.

11. It is found that the DOC FOI Administrator first learned that the complainant's request was still outstanding when she received the complainant's letter of appeal to the FOI Commission several months later.

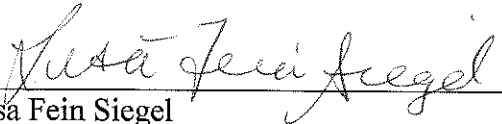
12. It is found that the DOC FOI Administrator then called the new liaison at Cheshire and arranged for the responsive records to be sent to Corrigan, where the complainant now resides.

13. It is found that the respondents failed to comply in a timely manner with the complainant's request for records.

14. The Commission declines to impose a civil penalty, in part because the complainant did not request its imposition. The respondents should be aware, however, that the Commission considers the respondents' violation to be without reasonable grounds in this instance and urges the respondents to provide better FOI training to substitute liaisons, if possible.

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 comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.



Lisa Fein Siegel
as Hearing Officer

FIC2012-414/HOR/LFS/04152103