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FREEDOM OF INFORMATION



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

against

Notice of Rescheduled
Commission Meeting

Docket #FIC 2012-503

Commissioner, State of Connecticut,
Department of Emergency Services and Public
Protection; and State of Connecticut,
Department of Emergency Services and Public
Protection, Division of State Police,
Respondent(s)

May 14, 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 22, 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, June 12, 2013.**

Any brief, memorandum of law or request for additional time, as referenced in the April 30, 2013 Transmittal of Proposed Final Decision, should be received by the Commission on or before May 31, 2013.

By Order of the Freedom of
Information Commission

W. Paradis
Acting Clerk of the Commission

Notice to: James Torlai
Terrence M. O'Neill, AAG

5/14/13/FIC# 2012-503/ReschedTrans/wrbp/KKR/TAH



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James Torlai,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-503

Commissioner, State of Connecticut,
Department of Emergency Services and Public
Protection; and State of Connecticut,
Department of Emergency Services and Public
Protection, Division of State Police,
Respondent(s)

April 30, 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 22, 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 May 10, 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 May 10, 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 May 10, 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: James Torlai
Terrence M. O'Neill, AAG

4/30/13/FIC# 2012-503/Trans/wrbp/KKR/TAH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

James Torlai,

Complainant

against

Docket #FIC 2012-503

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection; and State of Connecticut,
Department of Emergency Services and
Public Protection, Division of State Police

Respondents

April 17, 2013

The above-captioned matter was heard as a contested case on March 12, 2013, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2012-519, James Torlai v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police.

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 July 8, 2012, the complainant requested a copy of (a) "any written policy that would allow the destruction of exculpatory evidence in a criminal case..." and (b) any catalogs of video recordings made by Troop L, any lists of such recordings, and any other records that show which recordings are being maintained."
3. It is found that, having received no response, the complainant renewed the request, described in paragraph 2, above, by letter dated September 1, 2012.
4. By letter dated September 15, 2012, and filed on September 17, 2012, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (FOI) Act by failing to comply with the request for records, described in paragraph 2, above.
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 section 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 . . . (3) receive a copy of such records in accordance with section 1-212.

7. Section 1-212(a), G.S., provides in relevant part that “[a]ny person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record.”

8. It is found that the records responsive to the July 8th request, described in paragraph 2, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing in this matter, the complainant stated that he wished to withdraw his complaint as it relates to the request described in paragraph 2(a), above. Accordingly, such allegation will not be further addressed herein.

10. With regard to the request, described in paragraph 2(b), above, the respondents’ witness testified that the respondents do not maintain any records responsive to such request. The complainant, however, disputed this testimony, and asserted that testimony given by other witnesses in Docket #FIC 2012-205, James Torlai v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police,¹ is evidence that the respondents do, in fact, maintain such records.

11. The Commission takes administrative notice of the evidence and record in Docket #FIC 2012-205, James Torlai v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police. It is found,

¹ The testimony referenced is that of Keith Asmun, on October 9, 2012, and State Trooper Bruce LaChance, on February 4, 2013.

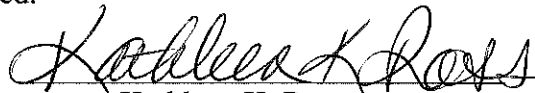
however, that there was no evidence presented during the hearings in that case supportive of the complainant's position that the respondents maintain the records described in paragraph 2(b), above. Rather, it is found that video recordings of traffic stops made by Troop L are labeled with a bar code identifying the case number to which they relate, and filed in the evidence room by case number.

12. Based upon the foregoing, it is found that the respondents do not maintain the records described in paragraph 2(b), above.

13. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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

1. The complaint is hereby dismissed.


Kathleen K. Ross
as Hearing Officer