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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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Umar Shahid,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2014-300

Chief Court Administrator, State of Connecticut, Hartford
Judicial Branch; and State of Connecticut, Hartford
Judicial Branch,
Respondent(s)

January 13, 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, February 11, 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 January 30, 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 January 30, 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 **fourteen (14) copies** be filed **ON OR BEFORE January 30, 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: Umar Shahid
Martin R. Libbin, Esq.

2015-01-13/FIC# 2014-300/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Umar Shahid,

Complainant

against

Docket #FIC 2014-300

Chief Court Administrator, State of Connecticut,
Judicial Branch, Court Operations Division; and
State of Connecticut, Judicial Branch,
Court Operations Division,

Respondents

January 9, 2014

The above-captioned matter was consolidated for hearing with Docket #FIC 2014-296; now also captioned Umar Shahid, v. Chief Court Administrator, State of Connecticut, Judicial Branch, Court Operations Division; and State of Connecticut, Judicial Branch, Court Operations Division. Both matters were heard as contested cases on December 29, 2014, at which time the complainant and the respondents herein 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, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.). The case caption above has been amended to reflect accurately the name of the respondent Court Operations Division.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents are public agencies only with respect to their administrative functions, within the meaning of §1-200(1)(A), G.S.
2. It is found that, by letter dated April 15, 2014, the complainant made a request to Robyn Smith of the Hartford Superior Court for copies of five sets of records: a) the "names of all personnel and their position in the Hartford Judicial District Court"; b) procedures concerning administrative complaints, including the appeal process; c) procedures concerning human resources complaints, including the appeal process; d) the code of ethics for all employees; and e) the "contents of policy manual of HTFD J.D."

(the “requested records”). The request letter also claimed that the complainant was indigent and requested the waiver of production fees.

3. By notice of appeal dated May 8, 2014 and filed May 13, 2014, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act by denying his request for records.

4. It is found that, by letter dated May 21, 2014, the Director of Legal Services of the respondent Court Operations Division stated that the April 15, 2014 records request had been forwarded to him on May 19, 2014, acknowledged the complainant’s request and requested advisement as to whether the complainant could review records sent on a CD.

5. It is found that, by letter dated July 21, 2014, the Director of Legal Services further responded to three records requests from the complainant. Concerning the April 15, 2014 request to Robyn Smith, specifically the records described at paragraph 2.b) and 2.c), the respondents stated that there are no records setting forth formal procedures for complaints. In response to the request described at paragraph 2.d), the letter enclosed a copy of the table of contents for the Administrative Policies and Procedures Manual and stated that this manual contains a code of ethics applicable to all employees. In response to the request described at paragraph 2.c), the letter also listed thirty three additional policy and procedure manuals of the Judicial Branch. Finally, with respect to the complainant’s request for a fee waiver, the July 21, 2014 letter enclosed a financial affidavit form and stated that additional records would not be provided until the form was completed and a determination made concerning the complainant’s qualification.

6. 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.

7. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

8. Section 1-212, G.S., provides in relevant part that:

(a) Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record. The type of copy provided shall be within the discretion of the public agency, except (1) the agency shall provide a certified copy whenever requested, and (2) if the applicant does not have access to a computer or facsimile machine, the public agency shall not send the applicant an electronic or facsimile copy. The fee for any copy provided in accordance with the Freedom of Information Act...[b]y...any judicial office, official or body or committee...shall not exceed twenty-five cents per page; and

....

(c) A public agency may require the prepayment of any fee required or permitted under the Freedom of Information Act if such fee is estimated to be ten dollars or more.

....

(d) The public agency shall waive any fee provided for in this section when: (1) [t]he person requesting the records is an indigent individual.... (emphasis added)

9. It is found that the requested records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

10. At the hearing, the complainant testified that, due to “issues going on” at the halfway house where he was residing, he had not received the respondents’ July 21, 2014 letter. However, he acknowledged receipt of the July 21, 2014 letter in the set of exhibits for the hearing that was mailed on December 8, 2014 (“received something from you...looked [it] over...read some of them, I believe”). At the hearing, the complainant also testified that, as presently incarcerated, he did not have access to a computer to review records sent on a CD.

11. It is found that the requested records constituted substantially more than forty pages, so that the fee for paper copies would be in excess of ten dollars. It is also found that the complainant did not file an executed financial affidavit form with the respondents or prepay the estimated fee in excess of ten dollars. Finally, it is found that the complainant does not have access to a computer.

12. It is further found that the respondents made a good faith effort to respond to a broad, not clearly delineated records request, providing some records without proof of

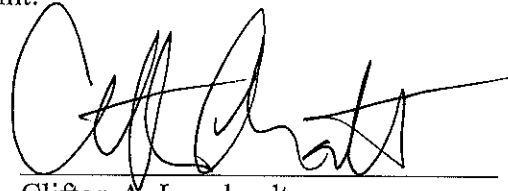
indigence or payment, explaining what records within broad categories were available and also which records did not exist.

13. It is concluded that, because the complainant does not have access to a computer, an electronic record of “names of all personnel and their position in the Hartford Judicial District Court”, the records request described at paragraph 2.a), cannot be furnished to the complainant pursuant to §1-212(a)(2), G.S.

14. It is further concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by not disclosing additional requested records to the complainant.

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.



Clifton A. Leonhardt
as Hearing Officer