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FREEDOM OF INFORMATION



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Tarrance Lawrence,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-329

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

March 2, 2016

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, March 23, 2016**. 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 March 11, 2016**. 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 March 11, 2016**. **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 March 11, 2016**, 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: Tarrance Lawrence
James Neil, Esq.

2016-03-02/FIC# 2015-329/Trans/wrbp/PSP/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Tarrance Lawrence,

Complainant

Docket # FIC 2015-329

against

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

Respondents

March 2, 2016

The above-captioned matter was heard as a contested case on September 30, 2015, at which time the complainant and respondents 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, et al., Superior Court, J.D., of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

After the hearing on this matter the complainant filed one after-filed exhibit that is marked as follows: Complainant's Exhibit B, Multi-page packet (including, cover letter, Affidavit (dated 10/8/2015) and Inmate Request Forms (both dated 6/1/2015)). The Commission has not received any objection from the respondents as to the submission of such documents.

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. By letter dated April 30, 2015, and filed on May 11, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records, described in paragraph 3, below.
3. It is found that, by letter dated April 14, 2015, the complainant made a request to the respondents for certain emails concerning himself, and audio and video recordings that were referenced in a January 16, 2015 disciplinary report ("April 14th request"). It is found that the complainant sought emails sent from January 20, 2015 through April 14, 2015.

4. It is found that the complainant delivered his April 14th request, described in paragraph 3, above, by depositing it in the appropriate mailbox in his correctional facility, addressed to Counselor Meigs, the respondents' FOI Liaison.

5. It is found that the respondents first learned of the complainant's request when they received notice from the Commission on or about June 12, 2015. It is found that such notice informed the respondents of the complainant's appeal and provided them with a copy of his complaint to the Commission and a copy of his records request described in paragraph 3, above. It is further found, however, that Counselor Meigs did not personally view the April 14th request until September 29, 2015, a day before the hearing in this matter.

6. Section 1-200(5), G.S., defines "public records or files" as:

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.

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 (1) inspect such records promptly during regular office or business hours . . . (3) receive a copy of such records in accordance with section 1-212.

8. 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."

9. It is found that the records requested by the complainant, to the extent that they exist, are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S.

10. At the hearing, Counselor Meigs testified, and it is found, that he received written requests from the complainant in February, March and June 2015, but not in April 2015. In addition, Counselor Supervisor Washington, the respondents' FOI Administrator, testified, and it is found, that in March 2015, the complainant made a separate written request to the respondents, which was addressed to C.S. Washington, seeking records similar to the records sought in the April 14th request. It is found, however, that the April 14th request at issue in this matter extended the search period by approximately one month. It is also found that C.S. Washington


did not locate any emails responsive to the March 2015 request and informed the complainant of the results of his search.

11. It is found that even though the respondents had notice of the April 14th request on or about June 12, 2015, the respondents, including C.S. Washington and Counselor Meigs, did not conduct a search for all records that may be responsive to such request.

12. It is therefore concluded that the respondents violated the FOI Act by failing to provide the complainant with access to the requested records.

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

1. The respondents shall forthwith undertake a search for the records described in paragraph 3 of the findings, above, and provide copies of any responsive records to the complainant, free of charge. If the respondents do not locate any records responsive to the complainant's request, the respondents shall provide the complainant with an affidavit detailing the results of their search.


Paula S. Pearlman
as Hearing Officer