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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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Kacey Lewis,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0320

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

December 15, 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, January 11, 2017**. 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 December 29, 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 December 29, 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 December 29, 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: Kacey Lewis
Attorney James Neil
cc: Craig Washington

FIC# 2016-0320/Trans/wrbp/KKR/VDH/2016-12-15

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Kacey Lewis,

Complainant

against

Docket #FIC 2016-0320

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

Respondents

September 6, 2016

The above-captioned matter was heard as a contested case on August 22, 2016, at which time the complainant and the 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, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 April 4, 2016, the complainant made a request to the respondents to review and inspect “roster(s) which illustrate the names of all correctional custody staff, including correctional officers, lieutenants, captains, and correctional treatment officers employed by your agency in [all] correctional facilities....”
3. It is found that, by letter dated April 15, 2016, the respondents denied the request, described in paragraph 2, above, on the ground that such records are exempt from disclosure pursuant to §1-210(b)(18)(G), G.S.
4. By letter dated April 18, 2016, and filed with the Commission on April 25, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with the request, 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 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

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

8. Section 1-210(b)(18), G.S., provides, in relevant part, that disclosure is not required of:

[r]ecords, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction or Whiting Forensic Division facilities. Such records shall include, but are not limited to...(G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities....

9. It is found that the “roster” is a record that is created on a daily basis at each correctional facility which identifies the name of each correctional officer and the location within each facility to which each such officer is assigned that day. It is found that such roster discloses not only the location of staff in the facility, but also the number of staff assigned to any one location, as well as the total number of staff on duty on a particular day at a particular facility.

10. It is found that rosters are “documents that contain information on the...assignment of ...staff at correctional institutions,” and that the respondent Commissioner has reasonable grounds to believe that disclosure of such records may result in a safety risk in a correctional facility. It is further found that such belief is not “frivolous or patently unfounded.” See People

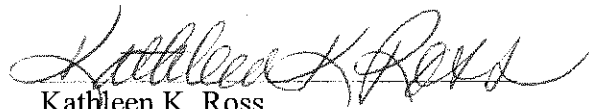
for the Ethical Treatment of Animals v. Freedom of Information Commission, 321 Conn. 805, 817 (2016).

11. Based upon the foregoing, it is concluded that the “roster,” described in paragraph 2, above, is exempt from disclosure pursuant to §1-210(b)(18)(G), G.S.

12. 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 dismissed.



Kathleen K. Ross
As Hearing Officer

FIC2016-320/hor/kkr/09062016