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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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Anthony Sinchak,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0581

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

June 16, 2017

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, July 12, 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 June 28, 2017**. 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 June 28, 2017**. **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 June 28, 2017**, 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: Anthony Sinchak
Attorney James Neil
cc: Craig Washington

FIC# 2016-0581/Trans/wrbp/VRP/VDH/2017-06-16

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Anthony Sinchak,

Complainant

against

Docket #FIC 2016-0581

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

Respondents

June 9, 2017

The above-captioned matter was heard as a contested case on February 3, 2017, at which time the complainant and the 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 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 of complaint filed August 15, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to comply with his July 9, 2016 request for certain information.
3. It is found that the complainant made a July 9, 2016 request to the respondents for any and all information concerning the Department of Correction classification and designation of “disruptive groups.” In particular, the complainant sought specific documentation concerning the addition of the Outlaws Motorcycle Club to the list of “disruptive groups,” and the specific authority giving the respondents the authority to seize property or mail of members of “disruptive groups.”
4. It is found that a “disruptive group” is defined by the respondents as “a structured or unstructured group designated by the Director of Security, that meets one or more but not all of the necessary recommendation factors to be considered as a Security Risk Group and which

exhibits behavior that jeopardizes the safety of the public, staff or other inmate(s) and/or the security and order of the facility.”

5. It is found that the respondents acknowledged the request on July 20, 2016.

6. It is found that the respondents provided the complainant with a copy of Administrative Directive (“A.D.”) 6.14, “Security Risk Groups,” and A.D. 10.7, “Inmate Communications.”

7. It is found that the two A.D.s are partially responsive to portions of the complainant’s request.

8. It is found that the remaining record responsive to the complainant’s request is the respondents’ security risk group manual.

9. 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.

10. 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 (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

11. Section 1-212(a), G.S., provides in relevant part: “Any person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record.”

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

13. The respondents claim that the withheld security risk group manual is exempt from disclosure pursuant to §1-210(b)(18), G.S., which provides that disclosure is not required of:

Records, 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...
Such records shall include, but are not limited to:

- (A) Security manuals, including emergency plans contained or referred to in such security manuals;
- (B) Engineering and architectural drawings of correctional institutions or facilities or Whiting Forensic Division facilities;
- (C) Operational specifications of security systems utilized by the Department of Correction at any correctional institution or facility or Whiting Forensic Division facilities, except that a general description of any such security system and the cost and quality of such system may be disclosed;
- (D) Training manuals prepared for correctional institutions and facilities or Whiting Forensic Division facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (E) Internal security audits of correctional institutions and facilities or Whiting Forensic Division facilities;
- (F) Minutes or recordings of staff meetings of the Department of Correction or Whiting Forensic Division facilities, or portions of such minutes or recordings, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;
- (G) Logs or other documents that contain information on the movement or assignment of inmates or staff at correctional institutions or facilities; and
- (H) Records that contain information on contacts between inmates, as defined in section 18-84, and law enforcement officers

14. The Commission has had a substantial line of cases holding that records concerning security risk groups are exempt from mandatory disclosure. See Docket #FIC 2015-189, *Alston v. Department of Correction et al.*; Docket #FIC 2013-541, *Edwards v. Department of Correction*; Docket #FIC 2010-284, *Dorlette v. Department of Correction*; Docket #FIC 2010-093, *Barletta v. Department of Correction*; and Docket #FIC 2010-047, *Calderon v. Department of Correction*.

15. It is found that, consistent with long-standing Commission precedent, the Commissioner of Correction has reasonable grounds to believe that disclosure of information concerning “disruptive groups” contained within the security risk group manual may result in a safety risk, and that the portions of the security risk group manual sought by the complainant are therefore exempt from disclosure pursuant to §1-210(b)(18), G.S.


16. It is therefore concluded that the respondents did not violate the FOI Act as alleged.

17. The complainant also contends that, as a result of the classification of the Outlaw Motorcycle Club as a “disruptive group,” he has been prevented from receiving mail from the Club or its members, and that he has no other contact with the outside world.

18. It is concluded, however, that this particular claim does not allege a violation of the FOI Act.

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.



Victor R. Perpetua
as Hearing Officer