

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by
Chris Powell (Journal Inquirer),

Complainant

against

State of Connecticut, Commissioner of
the Department of Correction,

Respondent

Report of Hearing Officer

Docket #FIC81-177

May 18, 1982

The above captioned matter was heard as a contested case on March 12, 1982, at which time the complainant and the respondent commissioner appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint.

After consideration of the entire record, the following facts are found:

1. The respondent commissioner is a public agency as defined by §1-18a(a), G.S.

2. By letter dated October 10, 1981, the complainant made a request of the respondent commissioner for access to the "Visiting Committee Reports generated by the committee's visits to Somers prior to the prison's accreditation."

3. In the complainant's October 10, 1981 letter to the respondent commissioner he also asked that he be informed as to any claim of exemption from disclosure under the Freedom of Information Act that might be made with regard to the records referred to in paragraph 2, above.

4. The complainant's request for access to the records referred to in paragraph 2, above, was denied by the respondent commissioner "for reasons of prison security" by letter dated October 14, 1981.

5. By letter dated October 15, 1981, the complainant made a further request that the respondent commissioner cite an exemption from disclosure for the requested records.

6. The complainant filed a complaint with this Commission on October 28, 1981, alleging that his October 10, 1981 request for records had been denied, that his request that the respondent commissioner cite an exemption for such records had been willfully denied, and asking that the respondent commissioner be fined for willful violation of the Freedom of Information Act.

7. It is found that by letter dated October 20, 1981 the respondent commissioner cited §1B-81-15(cc)(SIC) of the Regulations of Connecticut State Agencies as authority for his denial of the complainant's request.

8. It is found that by letter dated November 19, 1981, counsel for the respondent commissioner indicated that the authority for the respondent commissioner's denial should have been cited as Section 18-81-15(cc), Regulations of Connecticut State Agencies.

9. It is found that nothing in the Freedom of Information Act specifically exempts from disclosure the type of records described in paragraph 2, above.

10. It is found that the respondent commissioner failed to prove that the requested records are exempted from disclosure by any federal law or state statute, within the meaning of §1-19(a), G.S.

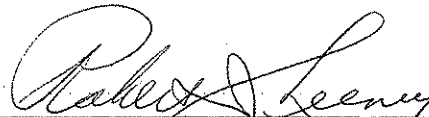
11. It is found that the records described in paragraph 2, above, relate to the conduct of the public's business and are prepared, owned, used, received or retained by a public agency, within the meaning of §1-18a(d), G.S.

12. It is therefore concluded that the records described in paragraph 2, above, are public records as defined by §1-18a(d), G.S., subject to disclosure pursuant to §§1-15 and 1-19(a), G.S.

13. The complainant's request that the Commission declare the respondent commissioner's refusal to release the requested records a willful violation of the Freedom of Information Act, subject to the imposition of a fine, is hereby denied.

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

1. The respondent commissioner shall forthwith provide the complainant with access to the records more fully described in paragraph 2 of the findings, above.



Commissioner Robert J. Leeney
as Hearing Officer

Approved by order of the Freedom of Information Commission at its regular meeting of June 23, 1982.



Mary Jo Jolicœur
Clerk of the Commission