

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Angel Llera,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2011-537

Chief, Police Department, City of Bridgeport;  
and Police Department, City of Bridgeport,  
Respondent(s)

August 17, 2012

### 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, September 12, 2012**. 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 August 31, 2012**. 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, the Commission requests that an **original and fourteen (14) copies** be filed **ON OR BEFORE August 31, 2012**. **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 August 31, 2012**, 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: Angel Llera  
Greg M. Conte, Esq.  
cc: Kristine Barone

8/17/12/FIC# 2011-537/Trans/wrbp/LFS/VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Angel Llera,

Complainant

against

Docket #FIC 2011-537

Chief, Police Department, City of  
Bridgeport; and Police Department, City  
of Bridgeport,

Respondents

August 9, 2012

The above-captioned matter was heard as a contested case on August 9, 2012, at which time the complainant and 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 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. It is found that on September 1, 2011, the complainant sent to the respondents a request for copies of all records pertaining to two criminal cases from 2006.
3. By letter of complaint filed September 20, 2011, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records he requested. The complainant requested the imposition of civil penalties.
4. 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.

5. 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 ... receive a copy of such records in accordance with the provisions of section 1-212.

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

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

8. It is found that the respondents maintain at least some of the records that the complainant requested.

9. It is found that the respondents came to the hearing in this matter prepared to deliver some of the records to the complainant. It is found that the respondents intended to deliver such records to the complainant's correctional institution following the hearing.

10. It is found that the respondents withheld some records in their entirety and redacted parts of others, claiming that §1-210(b)(2) and (3), G.S., provided an exemption from mandatory disclosure.

11. Section 1-210(b)(2), G.S., provides in relevant part that nothing in the FOI Act shall require the disclosure of "personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy. . . ."

12. Section 1-214(b), G.S., provides in relevant part:

Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files and the agency reasonably believes that the disclosure of such records would legally constitute an invasion of privacy, the agency shall immediately notify in writing (1) each employee concerned . . . and (2) the collective bargaining representative, if any, of each employee concerned. Nothing herein shall require an agency to withhold from disclosure the contents of personnel or medical files and similar files when it does not reasonably believe that such disclosure would legally constitute an invasion of personal privacy.

13. Section 1-210(b)(3)(A) and (B), G.S., provide that disclosure is not required of “[r]ecords of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of (A) the identity of informants not otherwise known or the identity of witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known, (B) signed statements of witnesses ...”

14. It is found that the respondents presented no evidence in support of their claimed exemptions. The Commission, therefore, is unable to make any findings of fact to support the respondents’ claims.

15. It is concluded that the respondents failed to prove that the records they withheld from the complainant and the redactions they made to the records that they did provide are exempt from mandatory disclosure.

16. Accordingly, it is concluded that the respondents violated the FOI Act by withholding and redacting some of the records requested by the complainant.

17. It is found, also, that the respondents failed to promptly provide the records for which they claimed no exemption.

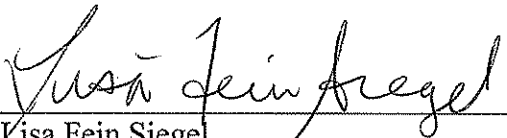
18. It is concluded that the respondents violated the promptness provisions of the FOI Act.

19. After consideration of the entire record in this case, the Commission declines to consider the imposition of civil penalties against the respondents.

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 provide to the complainant all records that are responsive to his request, described in paragraph 2, above. Such records may be delivered to the complainant’s counsel, in lieu of the correctional facility in which he is housed.

2. Henceforth, the respondents shall strictly comply with the requirements of the FOI Act.

  
\_\_\_\_\_  
Lisa Fein Siegel  
as Hearing Officer