



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

James Torlai,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2012-205

Commissioner, State of Connecticut,
Department of Emergency Services and Public
Protection, Division of State Police; and State of
Connecticut, Department of Emergency
Services and Public Protection, Division of
State Police,

Respondent(s)

February 26, 2013

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 Thursday, March 28, 2013**. 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 15, 2013**. 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 March 15, 2013**. 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 March 15, 2013**, 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: James Torlai
Terrence M. O'Neill, AAG

2013-02-26/FIC# 2012-205/Trans/wrbp/VRP//CAL

An Affirmative Action/Equal Opportunity Employer

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

James Torlai,

Complainant

against

Docket #FIC 2012-205

Commissioner, State of Connecticut,
Department of Emergency Services and
Public Protection, Division of State Police;
and State of Connecticut,
Department of Emergency Services and
Public Protection, Division of State Police,

Respondents

February 25, 2013

The above-captioned matter was heard as a contested case on October 9, 2012 at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The hearing was continued to November 13, 2012, to permit the testimony of State Trooper Bruce LaChance concerning records he was alleged to have created during a traffic stop of the complainant. After the November 13 hearing, the complainant by letter dated November 13, 2012 requested that the hearing be re-opened to permit him to introduce a one-page document into evidence. That document was admitted into evidence without a hearing and without objection, and designated as Complainant's Exhibit C. Due to technical problems with the Commission's recording software, no audio recording was made of the November 13 hearing, and the hearing was re-held on February 4, 2013, at the request of the complainant, in order to create a record of the proceedings, since the complainant would not stipulate as to the testimony of Trooper LaChance that had been presented on November 13.

This matter was consolidated for hearing with Docket #FIC 2012-242, James Torlai v. Commissioner, State of Connecticut, Department of Emergency Services and Public, Division of State Police, et al.

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 April 17, 2012, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for public records.

3. It is found that the complainant made a request on January 2, 2012, to the respondents for all records related to case number CFS 1100332907, which pertain to a traffic stop of the complainant by Trooper LaChance for allegedly erratic driving.

4. It is found that the respondents acknowledged the request on February 6, 2012, and provided records responsive to his request on March 27, 2012, and some additional records on November 13, 2012, which records the complainant believes to be incomplete.

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 section 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. Sections 1-210(a) and 1-212(a), G.S., state, respectively, in relevant parts:

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.

...

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

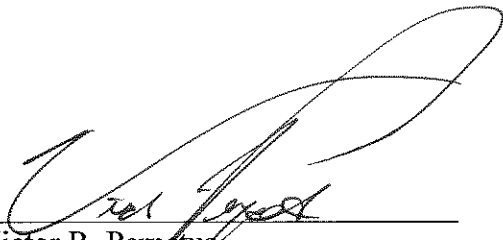
8. It is found that the respondents conducted a diligent search for the requested records, and provided all existing responsive records.

9. The testimony at the February 4, 2013 meeting principally concerned the existence of a video recording of the traffic stop of the complainant. It is found that no recording of that stop exists, due to a malfunction of the equipment at the time of the stop.

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

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