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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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Shawn Crocker,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2013-048

CTO Ilvento, FOI Coordinator, State of Connecticut, Department of Correction, Corrigan-Radgowski Correctional Center; and State of Connecticut, Department of Correction, Respondent(s)

August 29, 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 Wednesday, September 25, 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 September 13, 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, an **original and fourteen (14) copies** must be filed **ON OR BEFORE September 13, 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 September 13, 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: Shawn Crocker  
James Neil, Esq.  
cc: Kristine Barone

8/29/13/FIC# 2013-048/Trans/wrbp/GFD/VDH

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FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Shawn Crocker,

Complainant

against

Docket #FIC 2013-048

CTO Ilvento, FOI Coordinator, State of  
Connecticut, Department of Correction,  
Corrigan-Radgowski Correctional Center;  
and State of Connecticut, Department of  
Correction,

Respondents

August 7, 2013

The above-captioned matter was heard as a contested case on June 21, 2013, 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 dated January 30, 2013 and filed with the Commission on February 1, 2013, the complainant alleged that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with access to the records described in paragraph 3, below. The complainant also requested the assessment of civil penalties against the named respondent.
3. It is found that, by letter dated January 14, 2013, the complainant requested that respondent CTO Ilvento permit him to review or copy "[d]ocuments detailing the disciplinary investigation for impeding [order] dated 11-15-2011 of Shawn Crocker #204918." It is also found that the complainant requested all related reports and statements that were gathered with the exception of any confidential informants' names, which he indicated may be redacted ("requested records"). It is further found that the complainant was an inmate at Corrigan-Radgowski Correctional Center when he made his January 14, 2013 request for records.

4. It is found that on or about January 16, 2013, respondent CTO Ilvento, the FOI Liaison at Corrigan-Radgowski Correctional Center, acknowledged the complainant's request and informed him that such request was forwarded to CTO Washington, the FOI Officer at MacDougall-Walker Correctional Institution.

5. It is found that, by letter dated February 6, 2013, CTO Washington informed the complainant that copies of the requested records "will not be released until [the complainant's] financial obligation to pay" \$16.50 for such copies is met.

6. It is found that, by Inmate Request Form dated April 28, 2013 to respondent CTO Ilvento, the complainant inquired about the status of his January 14, 2013 request and asked when he would be able to review the requested records.

7. It is found that, by written note dated April 30, 2013, attached to a copy of the complainant's Inmate Request Form dated April 28, 2013, respondent CTO Ilvento stated that he will see the complainant as soon as he receives the reports.

8. It is found that, by letter dated May 7, 2013, the respondent CTO Ilvento informed the complainant that his request was denied on the grounds that "[i]nformation pertaining to the Safety and Security of a Correctional Facility, is not available for retention or for dissemination to the inmate population."

9. 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.

10. 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 . . . (3) receive a copy of such records in accordance with section 1-212.

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

12. It is found that to the extent the respondents maintain the requested records, such records are public records within the meaning of §§1-200(5), 1-210(a), and 1-212(a), G.S.

13. It is found that on the day of the hearing on this matter, the complainant was an inmate at Northern Correctional Institution and no longer located at Corrigan-Radgowski Correctional Center.

14. As to the complainant's allegations that he was not provided with access to the requested records, the respondents contended that such records are exempt from mandatory disclosure pursuant to §1-210(b)(18), G.S., because the records pertain to safety and security information which is not made available for retention or dissemination to the inmate population. The respondents also contended that since the requested records pertain to the investigation of an “impeding order” in which the complainant allegedly assaulted an officer at MacDougall-Walker Correctional Institution, disclosure of the requested records to the inmate population would create a safety and security risk by disclosing specific information and intelligence gathering techniques used by the respondents during safety and security investigations in their facilities. The respondents further contended that the complainant has a history of safety and security incidents resulting in the complainant's relocation to various correctional facilities in and outside of Connecticut. In addition, the respondents contended that even if they were to redact portions of the requested records being withheld for safety and security reasons, the complainant would receive essentially all blank pages, with the exception of the cover-page titled “Confidential.”

15. At the hearing on this matter, the complainant contended that the respondents still have not provided him with access to the requested records that were already reviewed for security and safety by CTO Washington at MacDougall-Walker Correctional Institution prior to forwarding such records to CTO Ilvento at Corrigan-Radgowski Correctional Center. The complainant also contended that his relocation to different correctional facilities is not relevant to his access to the requested records. The complainant further contended that the November 15, 2011 incident at MacDougall-Walker Correctional Institution and any subsequent incidents are not related and irrelevant to this matter.

16. 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:

- (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;

17. The complainant concedes, and it is found, that the requested records contain information pertaining to an impending order incident in which the complainant allegedly interfered and obstructed the normal operations at MacDougall-Walker Correctional Institution by assaulting an officer on November 15, 2011. It is also found that the requested records also include information and intelligence gathered by the respondent department during its investigation of the November 15, 2011 incident, including

statements from facility inmates and staff. It is further found the requested records include specific information and intelligence gathering techniques used by the respondents during the safety and security investigation of the November 15, 2011 incident.

18. It is found that disclosure of the information contained in the requested records could provide inmates inside the facility with the respondents' methods of gathering information and investigating serious offenses in facilities.


19. Based on the evidence in this case, it is found that the Commissioner of the respondent department had reasonable grounds to believe that disclosure of the requested records 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 respondent department, within the meaning of §1-210(b)(18), G.S.

20. Therefore, it is concluded that the requested records are permissibly exempt from the mandatory disclosure provisions of the FOI Act and that the respondents did not violate the FOI Act as alleged by the complainant.

21. Consequently, the Commission declines to consider the complainant's request for 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 complaint is hereby dismissed.



Gregory F. Daniels  
as Hearing Officer