



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

Edward Peruta,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-422

Reuben Bradford, Commissioner, State of
Connecticut, Department of Emergency
Services and Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection,
Respondent(s)

March 12, 2014

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, March 26, 2014**. 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 19, 2014**. 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 March 19, 2014**. **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 19, 2014**, 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: Edward Peruta, c/o Rachel Baird, Esq.
Steven M. Barry, AAG and Matthew B. Belzer, AAG

2014-03-12/FIC# 2013-422/Trans/wrbp/TCB/CAL

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FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

Report of Hearing Officer

Edward Peruta,

Complainant

against

Docket #FIC 2013-422

Reuben Bradford, Commissioner,
State of Connecticut, Department
of Emergency Services and Public
Protection; State of Connecticut,
Department of Emergency Services
and Public Protection,

Respondents

March 4, 2014

The above-captioned matter was heard as a contested case on February 3, 2014, at which time the complainant and the respondents 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 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 by e-mail dated June 13, 2013, the complainant made a request to inspect any video, audio, or 911 recordings related to an incident that occurred on June 8, 2013, at the Saveway baseball field in the town of Brooklyn at approximately 12:30 p.m.
3. It is found that, on or before June 17, 2013, the respondents informed the complainant that his request had been received.
4. It is found that, by e-mail dated July 10, 2013, the complainant asked the respondents to inform him whether or not the requested records exist and to cite any exemptions to their disclosure.
5. By e-mail also dated July 10, 2013, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI")

Act by failing to promptly comply with his request for access to inspect the requested public records. The complainant requested the imposition of a civil penalty.

6. 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.

7. 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....

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

9. It is found that by e-mail dated July 16, 2013, the respondents informed the complainant that a Motor Vehicle Report exists but because the records pertained to a pending prosecution, no records would be disclosed at that time and cited §1-210(b)(3)(C), G.S., as the applicable exemption.

10. It is also found that, although the respondents' e-mail, described in paragraph 9, above, was meant to deny the complainant access to any and all records responsive his request, they did not inform the complainant specifically that 911 recordings related to the incident described in paragraph 2, above, may exist until the hearing on this matter. It is found that respondents learned that there may be 911 recordings from a report that was not read until January 30, 2014.

11. At the hearing on this matter, the complainant stated that his complaint was specifically that the respondents failed to tell him in a timely manner that 911 recordings existed which he attributed to the respondent department's policy and procedures regarding FOI requests that caused an undue delay in providing complete and accurate responses his requests for access to records. The complainant stated, repeatedly, that he accepted the respondents' claim of exemption but sought a decision from this Commission on their failure to provide a complete, accurate and timely response, which he asserts should have included the fact that the 911 records existed.

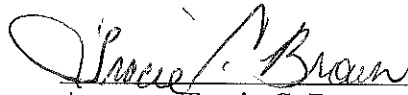
12. Consequently, the issue before the Commission is limited to the respondents' alleged failure to promptly provide the complainant with a response that detailed which records responsive to his request existed.

13. It is found, however, that in this regard, the complainant has not alleged a violation of the FOI Act and no further action will be taken by this Commission.

14. Therefore, the complainant's request for a civil penalty will not be considered.

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.



Attorney Tracie C. Brown
as Hearing Officer