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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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Brent Zuscin,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-370

Chief, Police Department, Town of Hamden;
and Police Department, Town of Hamden,
Respondent(s)

March 26, 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, April 23, 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 April 11, 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 April 11, 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 April 11, 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: Brent Zuscin
Susan Gruen, Esq.

3/26/14/FIC# 2013-370/Trans/wrbp/LFS//KKR

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Brent Zuscin,

Complainant

against

Docket #FIC 2013-370

Chief, Police Department, Town of
Hamden; and Police Department, Town of
Hamden,

Respondents

March 13, 2014

The above-captioned matter was heard as a contested case on December 19, 2013, 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 on May 22, 2013, the complainant requested copies of “dates, times, and ID’s that accessed case #1100013387.”
3. By letter filed June 19, 2013, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the records he requested.

4. 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, ...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 ... (3) receive a copy of such records in accordance with 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 at least some of the records of case #1100013387 are digital, and the complainant seeks records showing the date, time, and “IDs” of access to such digital case files.

9. It is found that on July 5, 2013, the respondents provided records that indicate the dates and times that the digital files of case #1100013387 were accessed electronically.

10. It is found that the respondents redacted the User Identifications – known colloquially as “user ids” -- from such records, claiming that §1-210(b)(20), G.S., exempts such information from mandatory disclosure.

11. Section 1-210(b)(20), G.S., provides that the FOI Act does not require disclosure of “Records of standards, procedures, processes, software and codes, not otherwise available to the public, the disclosure of which would compromise the security or integrity of an information technology system[.]”

12. It is found that the User Identifications that the respondents redacted are codes that are not otherwise available to the public.

13. It is found that disclosure of such user identification codes would provide one-half of the credentials needed to log onto the respondents’ information technology system.*

14. It is found, therefore, that disclosure of the user identification codes would compromise the security or integrity of the respondents’ information technology system, within the meaning of §1-210(b)(20), G.S.

15. At the hearing in this matter, the complainant clarified that by “IDs,” he did not necessarily mean the user identification codes, but intended to learn the identity of people who accessed case #1100013387.

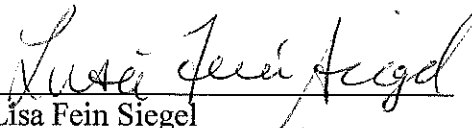
* The respondents’ sole evidence consisted of an affidavit of a person not present at the hearing and thus unavailable for questioning. Such evidence barely satisfies the respondents’ burden of proof, and is not recommended.

16. It is found, however, that, except for the user identifications contained in (and redacted from) the records provided to the complainant, the respondents do not maintain any record that indicates the names or other identification of people who accessed case #1100013387.

17. Accordingly, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

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.


Lisa Fein Siegel
as Hearing Officer