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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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Edward Peruta,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-420

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)

May 2, 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, May 28, 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 May 14, 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 May 14, 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 May 14, 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
Matthew B. Beizer, AAG and Neil Parille, AAG

2014-05-02/FIC# 2013-420/Trans/wrbp/LFS//CAL

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 2013-420

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

Respondents

May 1, 2014

The above-captioned matter was heard as a contested case on April 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 on July 10, 2013, the complainant made a nine-part request for the following databases:
 - a. Current criminal history conviction information;
 - b. Current active number of permits to carry pistols and revolvers and eligibility certificates;
 - c. Current active number of permits to carry pistols by town;
 - d. All firearms with fields showing town, make, model, cal. and serial number;
 - e. Requests and payments for state criminal history record checks since 2009;
 - f. Information on individuals and issuing authorities regarding denied temporary state permits to carry pistols or revolvers;
 - g. Current number of permits to carry pistols and revolvers currently revoked by DESPP;
 - h. Current federal, state or local public agencies in Connecticut, with contact name and e-mail information, that request and receive state criminal history record checks;

- i. All federal, state or local municipal agencies identified as exempt from state criminal history records check fees.

3. By letter filed July 10, 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. The complainant requested the imposition of a civil penalty.

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 (1) inspect such records promptly during regular office or business hours, ... or (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 complainants 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 did not provide the complainant with any of the records he requested for three months, until October 17, 2013.

9. It is found that in October, the complainant's request was assigned to a different staff attorney when the staff attorney originally assigned became department head.

10. It is found that the staff attorney assigned in October sent the first set of records to the complainant on October 17, 2013, and the final set on December 5, 2013.

11. The only issue in this matter is whether the respondents' compliance was prompt.

12. The respondents' witness testified credibly that her department, which has responsibility for providing legal services to the respondents, was severely overburdened and understaffed during the period of time that the complainant's request was pending.

13. The complainant contended that for years the respondents have offered excuses for their lack of promptness. The complainant also observed that his request for electronic databases was merely an "update" of identical previous requests for electronic records that the respondents provided, so that responding to this request should not have been difficult. In addition, the complainant pointed out that none of the information requested was exempt from disclosure and, therefore, required no time-consuming examination by legal staff for redactions.

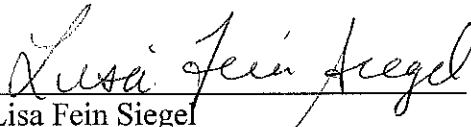
14. Notwithstanding the respondents' explanation for their tardy compliance, it is found that six months for full compliance with the complainant's request in this matter was not prompt.

15. It is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., by failing to provide records to the complainant in a prompt manner.

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

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Henceforth, the respondents shall strictly comply with the promptness requirements of §§1-210(a) and 1-212(a), G.S.



Lisa Fein Siegel
as Hearing Officer