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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 2013-495

Reuben Bradford, Commissioner, State of Connecticut,
Department of Emergency Services and Public Protection,
Division of State Police; Paul Mounts, Supervisor, 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)

May 21, 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, June 11, 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 30, 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 30, 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 30, 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

Wendy Paradis
Acting Clerk of the Commission

Notice to: Rachel Baird, Esq.
Terrence M. O'Neill, AAG

2014-05-21/FIC# 2013-495/Trans/wrbp/TCB//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

Edward Peruta,

Complainant

against

Docket #FIC 2013-495

Reuben Bradford, Commissioner,
State of Connecticut, Department
of Emergency Services and Public
Protection, Division of State; Paul
Mounts, Supervisor, 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

May 21, 2014

The above-captioned matter was heard as a contested case on March 5, 2014, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC2013-463, Edward Peruta v. Reuben Bradford, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection; and Docket #FIC2013-499, Edward Peruta v. Reuben Bradford, 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.

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 an e-mail sent on Saturday, August 10, 2013, at 9:26 a.m., the complainant made a request to the respondents for "prompt access to any e-mails received in response

to [a certain] request [made by the respondents] to contributors dated May 28, 2013.” The complainant’s request continued with “...please begin the process of preparing a complete CD/DVD of all e-mails received by you since May 28th 2013 for pick up at your office. . . I am prepared to present myself at your location at the earliest possible time to review the requested records.” It is found that the complainant specifically requested that the records be provided on a CD.

3. It is found that by e-mail sent on Saturday, August 10, 2013, at 9:49 a.m., the respondents informed the complainant that his request had been forwarded to the respondent departments’ legal affairs unit.

4. It is found that by another e-mail sent on Sunday, August 11, 2013, at 10:44 a.m., the complainant stated among other things that he was prepared to present himself “at your unit to access the requested records anytime on Monday, August 12th between 8:30 a.m. and 4:30 p.m.” He also stated that if he was denied access on Monday, he would be forced to file a complaint with the FOI Commission seeking the maximum civil penalty.

5. It is found that by e-mail sent on Monday, August 12, 2013, at 9:52 a.m., the respondents acknowledged the complainant’s request and informed him that the responsive records had to be reviewed by the legal affairs unit. The respondents also discouraged the complainant from making a trip to their offices stating that the records would not be available but offered to inform the complainant when the responsive records were compiled and ready for inspection so that he could, thereafter, make arrangements to inspect the records.

6. By e-mail dated August 12, 2013, the complainant appealed to this Commission alleging that the respondents violated §§1-210(a), and 1-212(a), G.S., of the Freedom of Information (“FOI”) Act by:

- a. “Denying [him] prompt access;
- b. Preventing the ability to present [himself] to the location of the records;
- c. Requirement that [he] make an appointment; and
- d. Intentional delay in providing access to public records.”

The complainant requested that the maximum civil penalty be imposed against the respondents.

7. 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.

8. 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....

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

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

11. At the hearing on this matter, the complainant clarified that his complaint in this matter is that the respondents discouraged him from coming to headquarters and stated “[y]our documents will not be ready, and you will not be allowed access to the Fingerprints Unit to view them.” He contended that the respondents thereby denied him access to inspect public records during the normal business hours of the department.

12. First, it is found that the respondents were entitled to ensure that there were no exemptions applicable to the requested records whether the request was for inspection or to receive a copy.

13. Second, it is found that while the respondents acknowledged the complainant’s request over the weekend, it was not unreasonable that the respondents would not have had the opportunity to compile, review and prepare the responsive records for the complainant’s inspection at any time on August 12th, which was the first business day action could have taken on the request.


14. Finally, it is found that it was only pragmatic that the respondents offer to inform that complainant when the responsive records were compiled and ready for inspection so that the complainant could, thereafter, inspect the records during the departments’ regular office hours.

15. Based upon the facts and circumstances of this case, it is concluded that the respondents did not violate the FOI Act as alleged by the complainant.

16. The complainant’s request for a civil penalty against the respondents 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

FIC2013-495/hor/tcb/20140520