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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 2013-499

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,
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# 2013-499/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 2013-499

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

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 #FIC2013-495, Edward Peruta v. 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.

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 e-mail dated August 13, 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 failing to provide him prompt access to inspect certain records. The complainant requested that the maximum civil penalty be imposed against the respondents.

3. 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.

4. 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 . . . Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void.

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

6. It is found that on or about June 14, 2013, a request was made, by a third party, to the respondents for “any list, database, or record of correspondence in written or electronic format (including e-mail) that shows [to whom] the May 28, 2013 letter from Paul M. Mounts regarding the secure e-mail program for returned criminal history checks was sent.”

7. It is found that the requested records are maintained only in paper form in a log book and are not available in electronic format.

8. It is found that the complainant, aware of the request described in paragraph 6, above, arrived at the respondents’ office on August 13, 2013, during regular office hours and requested to inspect the same records.

9. It is found that the complainant was meet by Attorney Plourde, a member of the respondent department's legal unit, who asked if he had made an appointment. It is found that while the complainant had made several attempts to make an appointment, he did not have one on that day.

10. After speaking with Attorney Plourde, the complainant waited in the lobby for approximately 30 minutes and then left.

11. It is found, however, that Attorney Plourde left the complainant in the lobby to find a room in which to allow him to inspect the records, but when she returned to escort him to the room, she learned that he had left.

12. It is found that it is unclear from the record whether the complainant was unaware that the respondents were in the process of complying with his request to inspect the records or if he simply became impatient with waiting.


13. Nonetheless, it is found that the respondents were attempting to comply with the complainant's request and did not deny him access to inspect the requested records. (It is also found that the question about the complainant having an appointment is immaterial under the facts and circumstances of this case.)

14. It is concluded, therefore, that the respondents did not violate the FOI Act as alleged by the complainant.

15. 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