



FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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James Torlai,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2013-589

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 22, 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: James Torlai
Terrence M. O'Neill, AAG

2014-05-22/FIC# 2013-589/Trans/wrbp/KKR//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

James Torlai,

Complainant

against

Docket #FIC 2013-589

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 22, 2014

The above-captioned matter was heard as a contested case on May 7, 2014, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, this matter was consolidated with Docket #FIC 2013-577, James Torlai v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection, Division of State Police; and State of Connecticut, Department of Emergency Services, 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. It is found that, by letter dated September 29, 2013 and filed October 1, 2013, the complainant appealed to this Commission, alleging that the respondents failed to comply with an order of this Commission in Docket #FIC 2012-728, James Torlai v. 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 (September 11, 2013) (“Torlai 728”).
3. Torlai 728, in turn, alleged non-compliance by the respondents of the Commission’s order in Docket #FIC 2011-700, James Torlai v. Legal Affairs Unit, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection (“Torlai 700”). Torlai 700 concerned a request, dated November 28, 2011, to the respondents for records pertaining to all DUI arrests made by Troop L between October 2010 and November 2011. In Torlai 700, the Commission

concluded that the respondents' inquiry into whether or not the responsive records were erased was insufficient, and ordered the respondents to conduct a more thorough inquiry into the legal status of such records. The Commission further ordered disclosure of, within 10 days of such order, all non-exempt, non-erased records responsive to the request, and further ordered the respondents to provide a report to the Commission regarding the legal status of the requested records (i.e. exempt, non-exempt, erased, or non-erased).

4. In Torlai 728, the Commission issued the following order:

1. Forthwith, the respondents shall ensure that an attorney or other supervisor reviews the legal conclusions made by their paralegal in this case and in connection with all records requests made pursuant to the [Freedom of Information]...Act. The respondents shall immediately after such review, provide the complainant with copies, free of charge, of all non-exempt, non-erased records responsive to this November 28, 2011 request, if they have not already done so.

2. Forthwith, the respondents shall report to the Commission, in accordance with paragraph 3 of the order [in Docket #FIC 2011-700] and provide a copy of same to the complainant.

5. It is found that, by letter dated November 25, 2013, the respondents reported to the Commission, with a copy to the complainant, about the status of the requested records. It is further found that such report lists categories of records responsive to the request according to whether such records are exempt, erased, non-exempt or non-erased, and the date such records are or became exempt or erased. It is further found that, of the 73 records at issue in Torlai 700, the respondents had determined, at the time of the hearing in Torlai 728, that nine were non-exempt and non-erased, and they provided copies of those nine records to the complainant.

6. Accordingly, it is concluded that the respondents complied with paragraph 2 of the order, described in paragraph 4, above.

7. With regard to the alleged non-compliance with paragraph 1 of the order, described in paragraph 4, above, it is found that an attorney for the respondents reviewed the legal conclusions of the respondents' paralegal regarding the legal status of the records at issue in Torlai 700. It is further found that, upon such review, no additional records were determined to be discloseable, because such records pertained to charges that had been erased.

8. At the hearing in this matter, however, the complainant contended that the respondents did not comply with paragraph 1 of the order because they did not provide him with one record that he claims was non-exempt and non-erased at the time of his request. He further argued that, despite the fact that the record is now erased, he is entitled to a copy of such record.

9. It is found that, even if the complainant is correct that one record was non-exempt and non-erased at the time of his request, it is also true that at the time the respondents were ordered by this Commission in Torlai 700, to disclose all non-exempt, non-erased records, such record had become erased and therefore not subject to disclosure.

10. Accordingly, it is found that the respondents complied with paragraph 1 of the order in Torlai 728, as described in paragraph 4, above.

11. At the hearing in this matter, the complainant further claimed that, with regard to the nine records that were provided to him, the respondents violated the Freedom of Information (FOI) Act because such records do not meet the requirements of §1-215, G.S., which requires, in part, disclosure of the address of the person arrested. Specifically, the complainant pointed to one record in which the trooper listed the address as “Smokerise,” in Prospect, CT, and argued that the respondents should have disclosed the full street address, for example: “18 Smokerise Lane” or “18 Smokerise Road.”

12. The respondents pointed out, at the hearing in this matter, that the complaint in this case alleged only non-compliance with the order in Torlai 728, and that any other issue raised by the complainant at the hearing is beyond the scope of such complaint.

13. The Commission agrees with the respondents that the allegation described in paragraph 11, above, is beyond the scope of the complaint.

14. Based upon the foregoing findings, it is concluded that the respondents did not violate the FOI Act as alleged in the complaint.

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.



Kathleen K. Ross
as Hearing Officer