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FREEDOM OF INFORMATION



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Ira Alston,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-189

Commissioner, State of Connecticut, Department of
Correction; and State of Connecticut, Department of
Correction,

Respondent(s)

October 22, 2015

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, November 18, 2015**. 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 November 6, 2015**. 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 November 6, 2015**. **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 **fifteen (15) copies** be filed **ON OR BEFORE November 6, 2015**, 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: Ira Alston
James Neil, Esq.

10/22/2015FIC# 2015-189/Trans/wrbp/CAL/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Ira Alston,

Complainant

against

Docket #FIC 2015-189

Commissioner, State of Connecticut,
Department of Correction; and
State of Connecticut, Department of Correction,

Respondents

September 23, 2015

The above-captioned matter was heard as a contested case on August 11 and September 9, 2015, at which times the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The complainant, who is incarcerated, appeared via teleconference, pursuant to the January 2004 memorandum of understanding between the Commission and the Department of Correction. *See* Docket No. CV 03-0826293, Anthony Sinchak v. FOIC, Superior Court, J.D. of Hartford at Hartford, Corrected Order dated January 27, 2004 (Sheldon, J.).

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 application dated February 19, 2015, the complainant made a request to the respondents for copies of three records: a) "all documentation leading up to the determination of the existence of The Bloods as a security risk group"; b) the "DOC SRG [security risk group] management manual effective from 6-30-13 to present"; and c) "Administrative Directive 6.14 effective 1-1-12" (all together sometimes herein the "requested records").
3. It is found that, by letter dated February 20, 2015, the respondents acknowledged the request and denied the request for the records described at paragraphs 2.a) and 2.b).
4. By letter of complaint dated February 24, 2015, and filed on March 13, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information Act ("FOIA") by failing to comply with the request described in paragraph 2, above.
5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

6. 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 . . . (3) receive a copy of such records in accordance with 1-212.

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

8. It is found that, to the extent that the respondents maintain the records described in paragraph 2, above, such records are public records and must be disclosed in accordance with §§1-200(5), 1-210(a) and 1-212(a), G.S., unless they are exempt from disclosure.

9. It is found that, on March 25, 2015, the respondents provided the complainant with three copies of Administrative Directive 6.14, the Directive in effect on January 1, 2012 as requested by the complainant (see paragraph 2.c, above), and also copies of the same Directive in effect on January 1, 2008 and January 15, 2009.

10. At the hearing, the respondents claimed the exemption at §1-210(b)(18), G.S., as the basis for withholding the requested records, except for the disclosures described in paragraph 9, above. Section 1-210(b), G.S., provides, in relevant part, that:

“[n]othing in the Freedom of Information Act shall be construed to require disclosure of...[r]ecords, the disclosure of which the Commissioner of Correction...has reasonable grounds to believe may result in a safety risk, including the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility under the supervision of the Department of Correction....”

11. It is found that Counselor Supervisor John Aldi is the Security Risk Group Coordinator for the respondent Department. He has worked at the respondent Department since 1995 and has held his current position since September 2006. He testified, and it is found, that

the respondent Department has identified approximately 400 security risk group members, or more informally, gang members. The complainant is one of the members of the security risk group.

12. Specifically concerning the requested records described at paragraph 2.a), Counselor Supervisor Aldi testified, and it is found, that the “documentation leading up to the determination of the existence of The Bloods as a security risk group” constitutes thousands of pages, which Counselor Supervisor Aldi has personally reviewed. The Bloods were identified as a security risk group in October 2002, after the collection of records during the two previous years. It is further found that these thousands of pages detail the detection methods and intelligence techniques that the respondent Department continues to use to identify security risk groups and their activities.

13. Specifically concerning the requested records described at paragraph 2.b), Counselor Supervisor Aldi testified, and it is found, that the security risk group management manual is approximately sixty pages and details security procedures for performing and documenting investigations. Disclosure of this manual would jeopardize the gathering of intelligence by the respondent Department and encourage security risk group members to attempt communication and organization methods that circumvent the procedures of the respondent Department.

14. At the hearing, the complainant objected that he was not provided an affidavit from George Owusu that had previously been in his possession and was therefore unable to offer the affidavit in evidence. The complainant represented that the affidavit affirmed that Mr. Owusu had possession of the security risk group management manual. Whether Mr. Owusu had the relevant manual or not, deeming the manual subject to mandatory disclosure pursuant to the FOIA would still present the security problems discussed at paragraph 13.

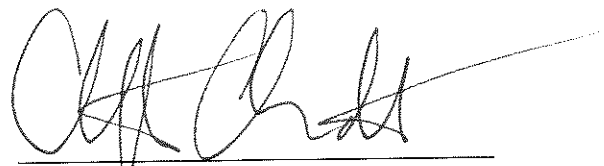
15. The Commission has had a substantial line of cases holding that records concerning security risk groups are exempt from mandatory disclosure. FIC # 2013-541, Edwards v. Department of Correction; FIC # 2010-284, Dorlette v. Department of Correction; FIC # 2010-093, Barletta v. Department of Correction; and FIC # 2010-047, Calderon v. Department of Correction. These cases, especially Barletta, set forth in considerable detail the reasons that gang related records are not subject to disclosure. Dorlette specifically concerned materials related to the Bloods.

16. Based upon the evidence produced at the hearing, it is concluded that, except for the disclosures described at paragraph 9, the Commissioner of Correction has reasonable grounds to believe that disclosure of the requested records may result in a safety risk, within the meaning of §1-210(b)(18), G.S.

16. It is therefore concluded that the respondents did not violate the FOIA when, except for the disclosures described at paragraph 9, above, they withheld the requested records.

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.

A handwritten signature in black ink, appearing to read 'Clifton A. Leonhardt', written over a horizontal line. The signature is stylized and cursive.

Clifton A. Leonhardt
as Hearing Officer

FIC2015-189/HOR/CAL/09232015