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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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David Taylor,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-236

Chairman, State of Connecticut, Board of Pardons and Paroles; and State of Connecticut, Board of Pardons and Paroles,

Respondent(s)

November 23, 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, December 16, 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 December 4, 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 December 4, 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 December 4, 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: David Taylor
Assistant Attorney General Steven R. Strom

2015-11-23/FIC# 2015-236/Trans/wrbp/VRP//VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

David Taylor,

Complainant

against

Docket #FIC 2015-236

Chairman, State of Connecticut,
Board of Pardons and Paroles; and
State of Connecticut, Board of
Pardons and Paroles,

Respondents

July 31, 2015

The above-captioned matter was heard as a contested case on July 31, 2015, at which time the complainant and the respondents appeared, stipulated to certain facts, 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 et al, 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. By letter of complaint filed March 26, 2015, the complainant appealed to the Commission, alleging that the respondents denied his March 8, 2015 request for certain public records.
3. It is found that, by letter dated March 8, 2015 to the respondent Chairman, the complainant requested:
 - a. A copy of the agreement between the respondent Board and the U.S. Immigration and Naturalization Service under §54-130b, G.S.;
 - b. A copy of the letter, notice or similar document the Board issues to inmates facing deportation which contains the following or similar statement: "Please be advised that Deportation Parole is one of many

- options available to the Board of Pardons and Paroles in order to effect an early release from custody within the Department of Correction”; and
- c. The number of inmates deported under §54-130b, G.S., since its enactment.

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, 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.

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, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212.

6. Section 1-212(a)(1), G.S., provides in relevant part:

Any person applying in writing shall receive, promptly upon request, a plain or certified copy of any public record.

7. It is found that the requested records described in paragraphs 3.a and 3.b, above, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

8. It is found that the respondents have on at least one prior occasion provided the agreement described in paragraph 3.a, above. It is also found that the complainant has received three or four copies of the agreement. It is further found that the respondents offered to provide another copy by letter dated March 30, 2015.

9. It is also found that the respondents by the same March 30, 2015 letter offered to provide copies of three letters responsive to the request described in paragraph 3.b, above.

10. It is found that, instead of copies of the three letters, the respondents inadvertently sent the complainant three copies of another letter.

11. It is found that the three letters were ultimately delivered to the complainant shortly before the hearing in this matter, together with another copy of the requested agreement, and a representation that there are no documents responsive to the portion of the request described in paragraph 3.c, above, because the Board has not given any commutations to aliens under §54-130b, G.S., since its enactment.

12. The complainant maintains that there must be more than three letters responsive to the portion of the request described in paragraph 3.b., above, because he has seen at least one other such letter.

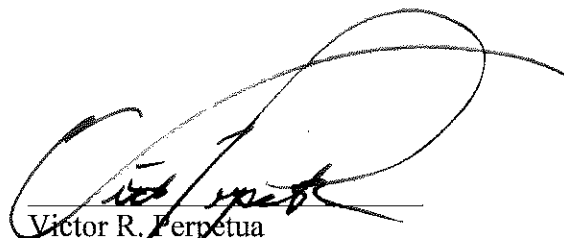
13. It is found, however, that the respondents conducted a reasonably diligent search for the requested records.

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

15. At the hearing, the complainant was permitted to question the Executive Director of the respondent Board concerning the forms of parole and sentence commutation that are or are not available to the complainant. The Commission thanks the respondents for providing the opportunity to clarify those issues for the complainant and the hearing officer.

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.



Victor R. Perpetua
as Hearing Officer