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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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Jason Goode,
Complainant(s)
against

Notice of Meeting

Docket #FIC 2015-591

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

Respondent(s)

January 29, 2016

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, March 9, 2016**. 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 February 26, 2016**. 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 February 26, 2016**. **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 February 26, 2016**, 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: Jason Goode
Attorney James Neil & Attorney Nancy Kase O'Brasky
cc: Craig Washington

2016-01-29/FIC# 2015-591/Trans/wrbp/KKR/VDH

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Jason Goode,

Complainant

against

Docket #FIC 2015-591

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

Respondents

December 14, 2015

The above-captioned matter was heard as a contested case on November 23, 2015, at which time 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, on a written "Inmate Request Form," dated August 12, 2015, the complainant requested from the respondents "a copy of all names of correctional lieutenants [and] captains, who participated in the use of force incident(s) dated July 30, 2014 thru [sic] August 3, 2014." The complainant specifically stated in his request that he was not seeking the incident report ("incident report").
3. By letter dated August 28, 2015, and filed with the Commission on September 8, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in paragraph 2, above.
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 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 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... (3) receive a copy of such records in accordance with section 1-212.

6. It is found that, in response to an earlier records request, the complainant received a copy of the incident report from the respondents, and that the incident report included the names of the department employees who were involved in the incident, investigated the incident, or signed off on the report. It is found that such names were typewritten in the report and that the report also included these individuals’ signatures.

7. At the hearing in this matter, the complainant stated that he filed the complaint herein because he believed the signatures of the individuals, described in paragraph 6, above, were illegible, and that the respondents therefore violated the FOI Act.

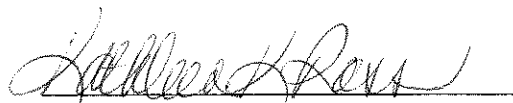
8. It is found that, other than the incident report, the respondents do not maintain a record consisting of the names or signatures of the individuals, described in paragraph 6, above.

9. It is concluded that the allegation described in paragraph 7, above, does not constitute a violation of the FOI Act. Moreover, in response to a request for information, a public agency is not required to create a record that does not exist.

10. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

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