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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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Timothy Townsend,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2015-643

Commissioner, State of Connecticut,  
Department of Correction; and  
State of Connecticut, Department of Correction,  
Respondent(s)

April 26, 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, May 25, 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 May 13, 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 May 13, 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 May 13, 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: Timothy Townsend  
Attorney James Neil  
Cc: Craig Washington

2016-04-26/FIC# 2015-643/Trans/wrbp/PSP//VDH

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Timothy Townsend,

Complainant

Docket # FIC 2015-643

against

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

Respondents

April 22, 2016

The above-captioned matter was heard as a contested case on December 11, 2015, at which time the complainant and 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. It is found that, by letter dated September 11, 2015, the complainant made a request to the respondents for “a copy of all documents related to Report No. CRCC-2015-02-012 and Incident Report CRCC 2015-10-150, and all other evidence related to the above incident...not limited to e-mails and faxes and telephone transcripts.” (Ellipsis in original).
3. By letter dated September 22, 2015, and filed on September 30, 2015, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with copies of the records, described in paragraph 2, above.
4. Section 1-200(5), G.S., defines “public records or files” as:

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 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 section 1-212.

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

7. It is found that the records requested by the complainant, to the extent that they exist, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. At the hearing, the complainant withdrew his complaint regarding incident report CRCC 2015-10-150. Accordingly, such report shall not be addressed further herein.

9. The complainant testified that his September 11, 2015 request was for all documents related to a January 27, 2015 incident and remarks that he made towards respondents' staff which were perceived as threatening. The respondents testified that they understood the complainant's request to be for only an *incident report* numbered CRCC-2015-02-012, which did not pertain to the complainant.

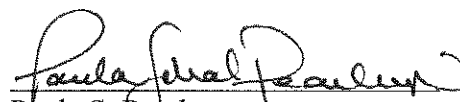
10. It is found that the September 11<sup>th</sup> request was clearly for “all documents” related to a certain incident. It is further found that although the request did not explicitly identify the incident, the respondents were aware that there existed a disciplinary report and a disciplinary process summary report, both numbered CRCC 15 02 012, which pertained to the complainant and the January 27<sup>th</sup> incident. It is found that the respondents should have provided, at a minimum, a copy of such reports to the complainant in response to the September 11<sup>th</sup> request.

11. Based on the facts and circumstances of this case, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., 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 respondents shall forthwith undertake a search for records relating to disciplinary report number CRCC-2015-02-012, and provide copies of any responsive records to the complainant, free of charge.

2. The Commission notes that better communication between the parties might have avoided the necessity of a costly and time-consuming hearing in this matter.

  
Paula S. Rearman  
as Hearing Officer