



FREEDOM OF INFORMATION



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

Notice of Meeting

Docket #FIC 2015-753

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

June 23, 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, July 27, 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 July 15, 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 July 15, 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 July 15, 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: Ira Alston
Attorney Nancy Canney
cc: Craig Washington

FIC# 2015-753/Trans/wrbp/TCB/VDH/2016-06-23

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 2015-753

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

Respondents

June 9, 2016

The above-captioned matter was scheduled to be heard as a contested case on January 20, 2016, at which time the complainant and the respondents appeared.

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.).

For purposes of the hearing, this matter was consolidated with Docket #FIC 2015-752, Ira Alston v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction; Docket #FIC 2015-774, Ira Alston v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction.

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 September 23, 2015, the complainant made a request to the respondents for a copy of his inmate request to Warden Chapdelaine dated January 27, 2015. It is found that the request was directed to CC Moore, the Freedom of Information ("FOI") Officer at MacDougall-Walker Correctional Institution ("MWCI").

3. It is found that by letter dated October 6, 2015, CC Moore acknowledged the complainant's request and then, on October 19, 2015, informed the complainant that because he was not housed in MWCI, there were no documents responsive to his request at that facility.

4. By letter dated October 26, 2015, and filed on November 5, 2015, the complainant appealed to this Commission alleging that the respondents had violated the FOI Act by denying him access to a public record.

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 section 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, (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.

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, facsimile, electronic or certified copy of any public record.”

8. It is found that the requested record is a public record within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

9. At the hearing on this matter, the respondents testified that while the complainant was originally informed that he was not housed at MWCI, that information was not correct.

10. It is found that after realizing that the complainant had been housed at MWCI, a search was conducted through the files in which the requested record would have

reasonably been maintained which were the files in the office of the Warden MWCI (the Warden's Files), the files of CC Moore, and the files of MWCI's grievance coordinator.

11. It is found that no record responsive to the complainant's request was found.

12. At the hearing on this matter, the complainant challenged the thoroughness of the respondents' search contending that there was insufficient evidence in the record to characterize the search of the Warden's files as thorough and that his administrative separation file was not searched. The complainant also claimed that pursuant to certain Administrative Directives of the respondent department, the respondents are required to maintain a copy of the requested record and provide a copy of it to him upon request.

13. Notwithstanding the complainant's contention to the contrary, it is found that the respondents conducted a thorough search of the records maintained at MWCI.

14. It is found that the requested record is not maintained at MWCI.

15. It is found that the complainant's administrative separation file is not maintained at MWCI but Northern Correctional Institution (hereinafter "NCI") where the complainant is presently housed.

16. At the hearing on this matter the respondents offered to search the records at NCI and stated that they would provide the requested record to the complainant if it was found. However, the complainant contended that he had already been told that the record was not maintained at NCI in response to the request he made to the FOI Liaison at that facility.

17. Notwithstanding the complainant's representation, the hearing officer ordered the respondents to conduct a search for the requested records at NCI.

18. It is found that by email dated January 22, 2016, the respondents indicated that a search of the complainant's administrative separation file had been conducted and the requested record was not found.

19. Notwithstanding any Administrative Directive of the respondent department regarding inmate records, it is found that the respondents do not maintain the record requested by the complainant.

20. It is concluded, therefore, that the respondents did not violate the disclosure provisions of §§1-210(a) and 1-212(a), G.S., 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 hereby dismissed.



Attorney Tracie C. Brown
as Hearing Officer

FIC2015-753/hor/cb/20160209