

TO: Freedom of Information Commission
FROM: Cynthia A. Cannata
RE: Minutes of the Commission's regular meeting of May 9, 2018

A regular meeting of the Freedom of Information Commission was held on May 9, 2018, in the Freedom of Information Hearing Room, 18-20 Trinity Street, Hartford, Connecticut. The meeting convened at 2:05 p.m. with the following Commissioners present:

Commissioner Owen P. Eagan, presiding
Commissioner Jay Shaw (participated via speakerphone)
Commissioner Matthew Streeter
Commissioner Christopher P. Hankins
Commissioner Lenny T. Winkler

Also present were staff members, Colleen M. Murphy, Mary E. Schwind, Tracie C. Brown, Kathleen K. Ross, Lisa F. Siegel, Valicia D. Harmon, Paula S. Pearlman, and Cindy Cannata.

The Commissioners voted unanimously to approve the Commission's regular meeting minutes of April 25, 2018.

Those in attendance were informed that the Commission does not ordinarily record the remarks made at its meetings, but will do so on request.

[Docket #FIC 2017-0432](#)

Kacey Lewis v. State of Connecticut,
Department of Correction; and State of
Connecticut, Department of Correction

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0434](#)

Kacey Lewis v. Commissioner, State of
Connecticut, Department of Correction;
and State of Connecticut, Department of Correction

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0526](#)

Tajah McClain v. Chief, Police Department, City of
Bridgeport; Police Department, City of Bridgeport;
Commissioner, State of Connecticut, Department of
Correction; and State of Connecticut, Department of
Correction

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0586](#)

Jermaine Cowan v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0629](#)

Jermaine Cowan v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0306](#)

Ann Rubin v. First Selectman, Town of East Windsor; and Town of East Windsor

Ann Rubin appeared on her own behalf. Attorney Mark Sommaruga appeared on behalf of the respondents. The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0317](#)

Marianne Heffernan v. Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Marianne Heffernan appeared on her own behalf. Attorney Nicole Anker appeared on behalf of the respondents. Attorney Kenneth Rosenthal appeared on behalf of the Intervenor, David Weinberg. The Commissioners voted 4-0, to amend the Hearing Officer's Report. Commissioner Christopher Hankins recused himself. The Commissioners voted 4-0, to adopt the Hearing Officer's Report as amended.* The proceedings were recorded digitally.

[Docket #FIC 2017-0333](#)

Marsha Sterling v. Town Manager, Town of Winchester; and Town of Winchester

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0342](#)

Robert Cushman, Law Offices of Robert A. Cushman, LLC v. Commissioner, State of Connecticut, Department of Emergency Services

and Public Protection; and State
of Connecticut, Department of Emergency
Services and Public Protection

The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commission unanimously voted to adopt the Hearing Officer's Report as amended.*

[Docket #FIC 2017-0596](#)

Robert Cushman, Law Offices of Robert A. Cushman, LLC v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to amend the Hearing Officer's Report. The Commission unanimously voted to adopt the Hearing Officer's Report as amended.*

[Docket #FIC 2017-0386](#)

Caryn Dickau v. Executive Director, State of Connecticut, University of Connecticut Health Center; and State of Connecticut, University of Connecticut Health Center

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0402](#)

Lauren Sievert, Mike Savino and Record Journal v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

The Commissioners unanimously voted to adopt the Hearing Officer's Report.

[Docket #FIC 2017-0519](#)

Joseph Sastre v. Commissioner, State of Connecticut, Department of Motor Vehicles; and State of Connecticut, Department of Motor Vehicles

The Commissioners removed the matter from the agenda.

Colleen M. Murphy reported that the annual FOI Conference held on April 27th at the Riverhouse at Goodspeed Landing was well attended and a huge success.

Colleen M. Murphy reported on legislation.

The meeting was adjourned at 3:58 p.m.

Cynthia A. Cannata

MINREGmeeting 05/09/2018/mes/05/10/2018

AMENDMENTS

[Docket # FIC 2017-0317](#); Marianne Heffernan v. Commissioner, State of Connecticut; Department of Correction; and State of Connecticut, Department of Correction

The introductory paragraph of the Hearing Officer's Report is amended as follows:

The above-captioned matter was heard as a contested case on September 18, 2017 and October 19, 2017, at which times the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. Prior to the contested case hearings, David Weinberg, whose records are at issue in this case, moved to intervene in this case as a party. The hearing officer granted Mr. Weinberg's motion. **MR.** [Ms.] Weinberg did not personally appear at the contested case hearing; rather, Attorney Kenneth Rosenthal appeared at the contested case and provided testimony on behalf of Mr. Weinberg. After consideration of the entire record, the following facts are found and conclusions of law are reached:

Paragraph 26 of the Hearing Officer's Report is amended as follows:

26. It is found that the requested records **CONTAIN RECORDS OF THE INTERVENOR'S VARIOUS JOBS IN THE CORRECTIONAL FACILITY AND** are in the nature of a personnel or similar files within the meaning of §1-210(b)(2), G.S. See Stephanie Reitz and The Associated Press v. Comm'r, State of Connecticut, Dep't of Correction, Docket #FIC 2006-343, ¶ 37 (June 27, 2007).

Paragraph 30 of the Hearing Officer's Report is amended as follows:

30. It is found that the records, or portions of records, identified in paragraph 32, above, are not matters of legitimate public concern and the disclosure of these records or portions thereof would be highly offensive to a reasonable person. **BASED ON THE UNIQUE FACTS AND CIRCUMSTANCES OF THIS CASE, IT** [It] is therefore concluded that such records or portions thereof are exempt from mandatory disclosure pursuant to §1-210(b)(2), G.S., and that the respondents did not violate the FOI Act by withholding such records from the complainant.

[Docket # FIC 2017-0342](#); Robert Cushman v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

Paragraph 9 of the Hearing Officer's Report is amended as follows:

9. It is found that, by email dated July 6, 2017, the Legal Affairs Unit notified the complainant that there were no MVR or booking room videos associated with Case No. 16-00527599. **THE LEGAL AFFAIRS UNIT** [They] also informed the complainant that no body camera footage was available, as state troopers do not wear body cameras. In addition, the Legal Affairs Unit informed the complainant that the respondents would continue to provide the complainant with updates and/or the materials requested.

Paragraph 10 of the Hearing Officer's Report is amended as follows:

10. It is found that, by letter dated July 10, 2017, the Legal Affairs Unit provided the complainant with copies of audio recordings responsive to the May 31st request. **THE LEGAL AFFAIRS UNIT** [They] also informed the complainant that **IT WAS** [they were] still awaiting a response from the respondents' Reports and Records Unit regarding the complainant's request for a copy of the investigative report. As soon as **IT** [they] received and reviewed the report, a copy would be provided to the complainant. In addition, the Legal Affairs Unit informed the complainant that the Reports and Records Unit is currently experiencing a substantial backlog, and requested that the complainant withdraw his complaint in this matter.

Paragraph 11 of the Hearing Officer's Report is amended as follows:

11. It is found that, by email dated July 21, 2017, the Legal Affairs Unit confirmed with the complainant that the only part of the May 31st request that remained outstanding was the police report. **THE LEGAL AFFAIRS UNIT** [He] also suggested to the complainant that, given the considerable backlog that exists in obtaining police reports pursuant to a FOI Act request, the complainant may wish to issue a subpoena to the Reports and Records Unit to obtain the report quicker.

[Docket # FIC 2017-0596](#); Robert Cushman v. Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection

Paragraph 11 of the Hearing Officer's Report is amended as follows:

11. It is found that on November 28, 2017, the Legal Affairs Unit emailed the complainant and informed him that a Statewide Narcotics Task Force report was located. **THE LEGAL AFFAIRS UNIT** [They] also informed the complainant that **IT** [they] had submitted a request to the Reports and Records Unit for a copy of such report and requested that the complainant submit the statutorily required \$16 search and copy fee. In addition, the Legal Affairs Unit informed the complainant that the Reports and Records Unit had a substantial backlog, and suggested that the complainant contact the Hartford Police Department ("HPD") for additional information as HPD was the lead agency involved in the July 27th incident.