FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Lashawn Cecil,

Complainant

against

Docket #FIC 2019-0097

Patrick J. Daley, Chief, Police Department, City of Norwich; Police Department, City of Norwich; and City of Norwich,

Respondents

December 11, 2019

The above-captioned matter was heard as a contested case on July 11, 2019, 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.).

On July 31, 2019, pursuant to an order of the hearing officer, the respondents submitted one after-filed exhibit which has been marked as Respondents' Exhibit 1 (after-filed): Affidavit of Cathleen Paradis, dated July 30, 2019. The complainant did not file an objection to such affidavit.

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 or about February 10, 2019, the complainant made a request to the respondents for copies of records concerning criminal Case No. 11-4235-OF, including, but not limited to, police reports, statements, weapon and DNA reports, state trooper reports and police conduct reports.

3. By letter filed on February 15, 2019, the complainant appealed to this Commission alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with his records request, described in paragraph 2, above. The complainant also requested that a civil penalty be imposed against the respondents.

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 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.

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 concluded that the requested records are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. It is found that the records at issue concern a murder that took place in 2011. It is found that an initial investigation was performed by the Norwich Police Department as Case No. 11-4235-OF. It is further found, based upon the evidence contained in Ms. Paradis' affidavit, that this crime was considered a cold case in 2015 and through the Connecticut State Police a cold case investigation was conducted and resulted in the arrest of the complainant. The respondent police department identified the 2015 arrest report and warrants that they maintained as File 15-242-AR.

9. It is found that the respondents provided the complainant with approximately 181 pages of documents contained in Case No. 11-4235-OF as well as the arrest report and warrants, described in paragraph 8, above, which were responsive to the complainant's records request.

10. The respondents claim that they have provided the complainant with all records responsive to his records request, except for signed witness statements which are exempt from disclosure pursuant to §1-210(b)(3)(C), G.S.

11. Section 1-210(b)(3)(C), G.S., permits the non-disclosure of:

> Records of law enforcement agencies not otherwise available to the public which records were compiled in connection with the detection or investigation of crime, if the disclosure of said records would not be in the public interest because it would result in the disclosure of…signed statements of witnesses….

12. On October 22, 2019, pursuant to an order of the hearing officer, the respondents submitted for in camera inspection unredacted copies of the records claimed to be exempt from disclosure, along with an in camera Index.

13. Based upon a careful review of the in camera records, it is found that such records consist of signed statements of witnesses, which were compiled in connection with the detection or investigation of a crime. Consequently, it is found that the in camera records are exempt from disclosure pursuant to §1-210(b)(3)(C), G.S.

14. It is found that the respondents provided the complainant with all records responsive to his records request which they maintained at the time of such request, except for the signed witness statements found to be exempt from disclosure in paragraph 13, above.

15. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S.

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.

Approved by Order of the Freedom of Information Commission at its regular meeting of December 11, 2019.

Cynthia A. Cannata
Acting Clerk of the Commission

PURSUANT TO SECTION 4-180(c), G.S., THE FOLLOWING ARE THE NAMES OF EACH PARTY AND THE MOST RECENT MAILING ADDRESS, PROVIDED TO THE FREEDOM OF INFORMATION COMMISSION, OF THE PARTIES OR THEIR AUTHORIZED REPRESENTATIVE.

THE PARTIES TO THIS CONTESTED CASE ARE:

**LASHAWN CECIL, #271037**, Cheshire Correctional Institution, 900 Highland Avenue, Cheshire, CT 06410

**PATRICK J. DALEY, CHIEF, POLICE DEPARTMENT, CITY OF NORWICH; POLICE DEPARTMENT, CITY OF NORWICH; AND CITY OF NORWICH**, c/o Attorney Michael E. Driscoll, Brown Jacobson P.C., PO Box 391, 22 Courthouse Square, Norwich, CT 06360

Cynthia A. Cannata
Acting Clerk of the Commission

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