

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

GerJuan Tyus,

Complainant

Docket #FIC 2019-0347

against

Peter Reichard, Chief, Police
Department, City of New London;
Police Department, City of New
London; and City of New London,

Respondents

September 25, 2019

The above-captioned matter was heard as a contested case on August 21, 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 2005 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 and conclusions of law are reached:

1. The respondents are public agencies within the meaning of §1-200(1), G.S.
2. By letter of complaint filed June 11, 2019, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by denying his request for certain public records pertaining to New London Police case number 07-3572. The complainant also requested that civil penalties be imposed against the respondents.
3. It is found that on May 22, 2019, the complainant made a written request to the respondents requesting, “...any and all ballistic testing regarding case number 07-3572”.
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 found 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 respondents acknowledged the complainant’s request in a letter dated May 28, 2019. The respondents noted in the letter that the records responsive to the complainant’s request were included as part of a previous request dated March 11, 2019.

9. At the hearing on this matter, the complainant testified that he received the records responsive to his March 11, 2019 request and acknowledged that those records included records responsive to his request in this case. However, the complainant further testified that he was also seeking records of the “chain of custody” of the ballistic evidence from the laboratory that examined the evidence.

10. It is found that the laboratory that examined the evidence in this matter was known at the time as the State of Connecticut, Department of Public Safety Division of Scientific Services, Forensic Science Laboratory. That agency is not a respondent in this matter. Additionally, there was no reference to “chain of custody” records in the complainant’s request in this matter.

11. Based upon the foregoing, it is concluded that the respondents complied with the complainant’s request and therefore did not violate the FOI Act as alleged. Accordingly, the Commission declines to consider the imposition of civil penalties against the respondents.

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 September 25, 2019.



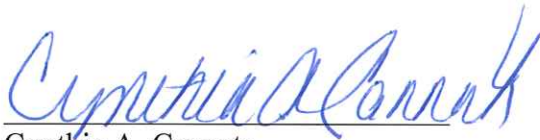
Cynthia A. Cannata
Acting Clerk of the Commission

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:

GERJUAN TYUS, #300985, Corrigan-Radgowski Correctional Center, 986 Norwich-New London Turnpike, Uncasville, CT 06382

PETER REICHARD, CHIEF, POLICE DEPARTMENT, CITY OF NEW LONDON; POLICE DEPARTMENT, CITY OF NEW LONDON; AND CITY OF NEW LONDON, c/o Attorney Brian K. Estep, Conway, Londregan, Sheehan & Monaco, P.C., 38 Huntington Street, PO Box 1351, New London, CT 06320



Cynthia A. Cannata
Acting Clerk of the Commission