

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Matthew Olson,

Complainant

against

Docket #FIC 2019-0531

Office of Legal Affairs, City of Stamford;
and City of Stamford,

Respondents

February 26, 2020

The above-captioned matter was heard as a contested case on December 16, 2019, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. This matter was consolidated for hearing with Docket #FIC 2019-0480, Matthew Olson v. Director of 911 Communications, Police Department, City of Stamford; Police Department, City of Stamford; and City of Stamford.

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 August 13, 2019, the complainant requested from the respondents the opportunity to inspect or obtain copies of police “procedures for the filing and recording of all complaints and the disposition thereof.”
3. By email dated August 27, 2019, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (FOI) Act by denying the request, described in paragraph 2, above.
4. Section 1-200(5), G.S., provides:

“[p]ublic 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:

[e]xcept 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 inspect such records promptly during regular office or business hours...or...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) and 1-210(a), G.S.

8. It is found that the respondents provided the requested records to the complainant on October 22, 2019. At the hearing in this matter, the complainant argued that such records were not provided to him promptly.

9. With respect to the timeliness of the respondents' compliance, the meaning of the word "promptly" is a fact-based question that has been previously addressed by the FOI Commission. In Advisory Opinion #51, In the Matter of a Request for Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised that the word "promptly" as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The Commission also gave the following guidance:

[t]he Commission believes that timely access to public records by persons seeking them is a fundamental right conferred by the Freedom of Information Act. Providing such access is therefore as much a part of their mission as their other major functions. Although each agency must determine its own set of priorities in dealing with its responsibilities within its limited resources, providing access to public records should be considered as one such priority.

10. The advisory opinion describes some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

11. It is found that the record(s) at issue are kept in a book with all other police department policies and that the volume of records requested was small. The respondents' witness testified that after the request was made, the city attorney who was assigned to respond to such request went out on an extended medical leave. However, the respondents did not offer any evidence regarding the efforts made to respond to the request in that attorney's absence or why it took the respondents more than two months to provide the requested records to the complainant.

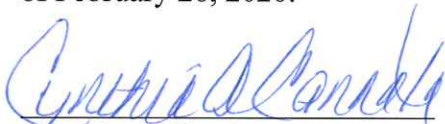
12. It is concluded that the respondents failed to provide the requested records to the complainant promptly.

13. Accordingly, it is concluded that the respondents violated the promptness provisions in §§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. Henceforth, the respondents shall strictly comply with the promptness provisions in §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of February 26, 2020.



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:

MATTHEW OLSON, 73 Mill Road, Stamford, CT 06903

OFFICE OF LEGAL AFFAIRS, CITY OF STAMFORD; AND CITY OF STAMFORD, c/o Attorney Michael S. Toma, City of Stamford, Corporation Counsel's Office, 888 Washington Boulevard, 9th Floor, Stamford, CT 06904



Cynthia A. Cannata
Acting Clerk of the Commission