

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

GerJuan Tyus,

Complainant

against

Docket #FIC 2019-0108

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

Respondents

January 8, 2020

The above-captioned matter was heard as a contested case on June 25, 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, 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 are found 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 February 20, 2019, the complainant appealed to the Commission, alleging that the respondents denied his request for certain public records.
3. It is found that the complainant made a January 27, 2019 request for, among other records no longer at issue, "cell tower analysis" relating to two telephone numbers.
4. It is found that the respondents, by letter dated February 6, 2019, denied that request.
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:

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 ... or (3) receive a copy of such records in accordance with the provisions of section 1-212.

7. Section 1-212(a), G.S., provides in relevant part: "Any person applying in writing shall receive, promptly upon request, a plain, facsimile, electronic or certified copy of any public record."

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

9. The respondents maintain that the requested records are exempt from disclosure pursuant to §1-210(b)(3)(E), G.S., which provides that disclosure is not required 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 such records would not be in the public interest because it would result in the disclosure of ... (E) investigatory techniques not otherwise known to the general public

10. It is found that the requested records are records of law enforcement agencies, and were compiled in connection with the detection or investigation of crime.

11. The respondents submitted the records at issue to the Commission for an in camera inspection.

11. After a careful in camera inspection, it is found that the records consist of three pages of maps, and satellite photos of the areas depicted by the maps, as well as information concerning the cell phone towers that are located on the maps, and cell phone calls that were made.

12. The respondents contend that the maps and photos, and the information contained on them, disclose investigatory techniques not otherwise known to the public.

13. The evidence offered by the respondents in support of their claim of exemption are the records themselves, and the conclusory testimony of the chief of police that the records reveal investigatory techniques not otherwise known to the public.

14. The Commission takes administrative notice of the fact that the use of cell phone and cell tower data in the investigation of crime is not an investigatory technique not otherwise known to the public.

15. At the hearing, the complainant clarified that he was only seeking the still photos and charts showing the location of the telephones.

16. After a careful in camera inspection, it is found that the in camera records do not contain any details on the use of cell phone and cell tower data to investigate crime, beyond the general information that is otherwise available to the public.

17. It is therefore found that the in camera records do not disclose any investigatory techniques not otherwise known to the public.

18. It is concluded that the in camera records are not exempt from disclosure pursuant to §1-210(b)(3)(E), G.S., and that the respondents violated the FOI Act by failing to disclose those records to the complainant.

The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. The respondents shall forthwith provide copies of the in camera records to the complainant, free of charge.

2. In complying with paragraph 1 of the order, above, the respondents may redact any narrative information not contained within the body of the maps and charts, since the complainant clarified at the hearing that he was not seeking such information.

Approved by Order of the Freedom of Information Commission at its regular meeting of January 8, 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:

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