

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Ira Alston,

Complainant

against

Docket #FIC 2022-0519

Karl Jacobson¹, Chief, Police Department,
City of New Haven; Police Department,
City of New Haven; and City of New Haven,

Respondents

September 13, 2023

The above-captioned matter was heard as a contested case on May 30, 2023, at which time the complainant and the respondents appeared 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. It is found that, by letter dated September 28, 2022, the complainant requested copies of the following records:
 - (a) “any/all documentation surrounding an one page informant payment request dated February 2, 1999 for [XXXXXX] filed under police case file no. 99-76967...”;² and
 - (b) “any and all rules, regulations and/or policies memorandums, letters, notes, etc. in effect between the years 1999-2005 regarding the NEW HAVEN POLICE DEPARTMENT proper

¹ The Commission notes that there was an error in the case caption regarding the respondent Police Chief’s name, which it has corrected.

² The complainant’s request included the name of a potentially confidential informant, the identity of whom the complainant consented to have redacted from Complainant’s Exhibit C, and which the Commission has bracketed out herein.

use of funds available for information from informants established or promulgated by the New Haven Police Department or the Connecticut State Police Department.”

3. It is found that, by letter dated October 10, 2022, the respondents acknowledged the complainant’s request.

4. By letter of complaint, dated October 24, 2022 and filed November 3, 2022, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide the records, described in paragraph 2, above. The complainant also requested the imposition of a civil penalty against the respondents.

5. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, videotaped, printed, photostated, photographed or recorded by any other method.

6. Section 1-210, G.S., provides, in relevant part:

- (a) [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 ... (3) receive a copy of such records in accordance with section 1-212
- (c) [w]henever a public agency receives a request from any person confined in a correctional institution or facility ... for disclosure of any public record under the Freedom of Information Act, the public agency shall promptly notify the Commissioner of Correction ... of such request as required by the Freedom of Information Act. If the commissioner believes the requested record is exempt from disclosure pursuant to subdivision (18) of subsection (b) of this section, the commissioner may withhold such record from such person when the record is delivered to the person’s correctional institution or facility

7. Section 1-212(a), G.S., provides, in relevant part: “[a]ny 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, to the extent they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. At the hearing in this matter, the complainant testified that he did not receive records responsive to his request prior to receiving the respondents’ proposed exhibits through the Department of Correction (“DOC”) on the morning of his May 30th hearing. The complainant therefore argued that the respondents failed to provide the requested records promptly.

10. With regard to the complainant’s request, described in paragraph 2(b), above, it is found, that, by email dated October 24, 2022, the respondents provided all responsive records to their point of contact within the DOC, who acknowledged receipt of such records.

11. It is therefore found that the respondents did not deny the complainant’s request, described in paragraph 2(b), above, and that the respondents disclosed responsive records to the DOC, in accordance with §1-210(c), G.S., within four weeks of the complainant’s request.

12. Accordingly, it is concluded that the respondents did not violate the promptness requirements of §§1-210(a) and 1-212(a), G.S., with respect to the complainant’s request described in paragraph 2(b), above.

13. With regard to the complainant’s request described in paragraph 2(a), above, it is found that, by email dated October 24, 2022, the respondents initially denied such request on the basis that they “do not release information regarding confidential informants...”

14. It is found however that, in preparation for the May 30th hearing in this matter, the Officer in Charge of the Records Division (“OIC”) for the respondents conducted a search for responsive records. It is also found that the OIC expanded his search beyond the date in the complainant’s request, described in paragraph 2(a), above, and that he searched all known files and locations where such records would be maintained by the respondents. It is further found that the OIC searched by both the informant’s name and the case number associated with the underlying informant payment request form.

15. It is found that neither the underlying informant payment request form nor any records responsive to the request described in paragraph 2(a), above, were located as a result of the search described in paragraph 14, above.

16. Based on the foregoing, it is found that the respondents conducted a thorough search for the requested records, described in paragraph 2(a), above, but did not find any responsive records.

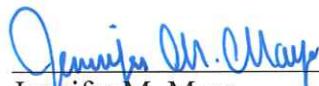
17. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., with respect to the complainant’s request described in paragraph 2(a), above.

18. Because the respondents did not violate the FOI Act under the facts and circumstances of this case, consideration of the complainant's request for the imposition of a civil penalty is not warranted.

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

1. The complaint is dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of September 13, 2023.



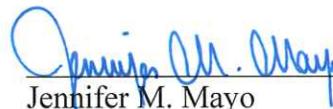
Jennifer M. Mayo
Acting Clerk of the Commission

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:

IRA ALSTON, #275666, Corrigan/Radgowski Correctional Center, 986 Norwich-New London Turnpike, Uncasville, CT 06382

KARL JOHNSON, CHIEF, POLICE DEPARTMENT, CITY OF NEW HAVEN; POLICE DEPARTMENT, CITY OF NEW HAVEN; AND CITY OF NEW HAVEN, c/o Attorney Catherine E. LaMarr, Office of the Corporation Counsel, City Hall, 165 Church Street, 4th Floor, New Haven, CT 06510



Jennifer M. Mayo
Acting Clerk of the Commission