

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

Tyronne Pierce,

Complainant

against

Docket #FIC 2017-0174

Dora B. Schriro, Commissioner, State of
Connecticut, Department of Emergency
Services and Public Protection; and State of
Connecticut, Department of Emergency
Services and Public Protection; Intergrated
Security, Inc.,

Respondents

January 24, 2018

The above-captioned matter was heard as a contested case on September 25, 2017, 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.).

At the hearing on this matter, the respondent Commissioner, State of Connecticut, Department of Correction and the respondent State of Connecticut, Department of Correction, which were initially designated as respondents, moved to have the complaint dismissed against them and their names removed from the caption of the case. The complainant indicated that he did not object to the granting of the motion. The motion was granted at the hearing.

In addition, Integrated Security Inc., while named by the complainant in his appeal, was not named as a respondent in the above-captioned complaint. By order of the hearing officer, dated October 12, 2017, Integrated Security Inc., was granted party status in the above-captioned complaint.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. The respondents, Dora B. Schriro, Commissioner, State of Connecticut, Department of Emergency Services and Public Protection; and State of Connecticut, Department of Emergency Services and Public Protection, are public agencies within the meaning of §1-200(1), G.S.

2. It is found that, by letter dated March 20, 2017, and filed on March 24, 2017, the complainant appealed to this Commission by way of an affidavit in which he stated, in part, that the complaint was filed “against the above mentioned agency...” and that the two agencies mentioned were as follows:

State Police
1111 Cournty Club Road
Middletown, CT 06457-2389

and

Integrated Security Inc.
40 Russ Street
Hartford, CT 06106.

It is also found that the complainant stated that he enclosed “all copies from the F.O.I.A. request[s] in order to support [his] claim.” It is found that the complainant enclosed letters of requests for records to the following:

- a. Colonel State Police I.A.D.;
- b. Integrated Security Inc.;
- c. Mayor Luke Bronin of the City of Hartford;
- d. Mayor Anthony Falzarano of the Town of Putnam;
- e. John B. Hughes of the U.S. Justice Department; and
- f. the Federal Bureau of Investigation.

3. At the hearing on this matter, the complainant indicated that he wanted to “mark off” the letters to John B. Hughes of the U.S. Justice Department and the Federal Bureau of Investigation. Consequently, the requests to those agencies will not be addressed herein.

4. The complainant also indicated at the hearing that he intended to have the letters to the other four individuals and/or agencies treated as exhibits in separate complaints against those individuals and agencies.

5. It is found, however, that in light of the complainant’s indication that his complaint was being filed against the State Police and Integrated Security Inc., it was reasonable for the Commission to treat the submission of the letters to Mayor Luke Bronin of the City of Hartford; Mayor Anthony Falzarano of the Town of Putnam; John

B. Hughes of the U.S. Justice Department; and the Federal Bureau of Investigation as proof of his claim (as he stated). Moreover, the Commission, designates parties in he contested cases which it adjudicates, pursuant to regulation §1-21-j-30, Regulations of Connecticut State Agencies.¹

6. Consequently, the Commission will only address the complainant's requests made to the Colonel of the State Police Internal Affairs Division ("I.A.D."), and Integrated Security Inc.

7. 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.

8. 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.

9. 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."

10. It is found 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), 1-210(a) and 1-212(a), G.S.

¹ The hearing officer agreed to learn if the Commission had a process whereby the complainant's intended complaints against Mayor Luke Bronin of the City of Hartford, and Mayor Anthony Falzarano of the Town of Putnam could be docketed as separate complaints at this point. There is no such process. However, the complainant may, as he was advised during the hearing on this matter, request the records again and file new and separate complaints against each agency that he believes has violated the FOI Act.

11. It is found that, by letter dated February 21, 2017, to the Colonel of the State Police I.A.D., a division of the respondent Department of Emergency Services and Public Protection (hereinafter “DESPP”), the complainant made a request for certain records related to the investigation of a complaint he said that he filed with that division dated October 28, 2016.

12. It is found that, at the hearing on this matter, the complainant offered as an exhibit, which was admitted and marked as Complainant’s Exhibit A, a copy of a certified mail return receipt stamped “RECEIVED BY STATE OF CT DEPT. OF SAFETY MIDDLETOWN, CT 06457-9998” with the date of 10/28/16 written in the section for date of delivery.

13. At the hearing on this matter, however, the respondents’ witness, State Trooper Douglas Sauve, testified credibly. Based on the credible testimony of the witness, it is found that he conducted a reasonable and diligent search and that the respondents do not have a copy of an October 28, 2016 complaint from the complainant. It is also found, that, therefore, they do not have any records related to an investigation of such complaint. Finally, it is found, that, in the event that the respondents had received the complaint’s October 28, 2016 complaint, it would have been forwarded to the Internal Affairs Division immediately which division would have opened a case file in which all records related to the complaint would have been maintained.²

14. It is found, therefore, that the respondents did not violate the disclosure provisions of the FOI Act by failing to provide the complainant with the records he requested, because such records do not exist.

15. With respect to the complainant’s records request to Integrated Security Inc., it is found that by letter dated February 23, 2017, the complainant made a request to that company for records related to case/file number 07-35778, and for the company’s policy, directives and procedures for their investigations.

16. It is found that Integrated Security Inc., did not respond to the complainant’s request.

17. The complainant contended, at the hearing on this matter, that Intergrated Security Inc., is the investigating arm of the City of Hartford and therefore, is a public agency subject to the disclosure provisions of the FOI Act.

18. Section 1-200(1), G.S., defines “public agency” as:

(A) Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission,

² In addition, the respondents’ witness testified credibly that the stamp on the return receipt is not one with which he is familiar and that all of the stamps he is familiar with have identified the respondent as the “Department of *Public* Safety” and not the “Department of Safety.”

authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official ...; (B) Any person to the extent such person is deemed to be the functional equivalent of a public agency pursuant to law; or (C) Any “implementing agency”, as defined in section 32-222.

19. It is found, however, that Integrated Security Inc., is a private security company that offers security and investigative services, via contract, for private and government agencies.

20. The complainant did not contend that Integrated Security Inc., is the functional equivalent of a public agency. It is also found that Integrated Security Inc., is not an implementing agency within the meaning of §32-222, G.S.

21. It is concluded that Integrated Security Inc. is not a public agency within the meaning of 1-200(1)(A), (B), or (C), G.S.

22. Section 1-200(5), G.S., includes in its definition of public records those records that “a public agency is entitled to receive a copy by law or contract under section 1-218...”

23. Section 1-218, G.S., provides in relevant part:

Each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (1) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (2) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206.

24. It is found that there is no evidence in the record of this case that any contract the City of Hartford may have with Integrated Security Inc., is for the performance of a

governmental function within the meaning of §1-200(11), G.S., or is in excess of \$2.5 million.³

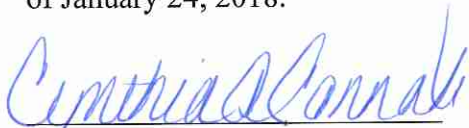
25. It is concluded, therefore, based on the evidence in this case, that Integrated Security Inc.'s records pertaining to the services it may provide to the City of Hartford are not public records. The Commission also notes that even if the criteria of §1-218, G.S., had been proven, the request described in paragraph 15, above, is invalid by operation of law since it was not made to the public agency, but rather to the contractor.

26. Consequently, the Commission will make no further findings with respect to that portion of the complainant's appeal.

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 January 24, 2018.



Cynthia A. Cannata
Acting Clerk of the Commission

³ Section 1-200(11), G.S., provides in relevant part: "Governmental function" means the administration or management of a program of a public agency, which program has been authorized by law to be administered or managed by a person, where (A) the person receives funding from the public agency for administering or managing the program, (B) the public agency is involved in or regulates to a significant extent such person's administration or management of the program, whether or not such involvement or regulation is direct, pervasive, continuous or day-to-day, and (C) the person participates in the formulation of governmental policies or decisions in connection with the administration or management of the program and such policies or decisions bind the public agency. "Governmental function" shall not include the mere provision of goods or services to a public agency without the delegated responsibility to administer or manage a program of a public agency.

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:

TYRONNE PIERCE, #176388, Osborn Correctional Institution, PO Box 100,
Somers, CT 06071

**DORA B. SCHIRO, COMMISSIONER, STATE OF CONNECTICUT,
DEPARTMENT OF EMERGENCY SERVICES AND PUBLIC PROTECTION;
AND STATE OF CONNECTICUT, DEPARTMENT OF EMERGENCY
SERVICES AND PUBLIC PROTECTION**, c/o Assistant Attorney General Stephen
R. Finucane, Office of the Attorney General, 110 Sherman Street, Hartford, CT 06105

INTERVENOR: INTERGRATED SECURITY, INC., 40 Russ Street, Hartford, CT
06106



Cynthia A. Cannata
Acting Clerk of the Commission