

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by

FINAL DECISION

William McKinney,

Complainant

against

Docket #FIC 2017-0524

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

Respondents

July 25, 2018

The above-captioned matter was heard as a contested case on June 19, 2018, 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.).

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 the complainant was arrested in downtown New Haven on July 13, 2017 for aggravated assault.
3. It is found that, by letter dated August 12, 2017, the complainant requested several categories of records from the respondents related to his arrest, as well as other law enforcement records. It is further found that the respondents acknowledged such request, by letter dated September 11, 2017.
4. By letter dated September 3, 2017, and filed on September 6, 2017, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for copies of the records described in paragraph 3, above.

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 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....

7. 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....”

8. At the hearing in this matter, the complainant testified that the only remaining categories of requested records, as set forth in his request letter, are:

a. “I am requesting all dispatch/911 calls of people who were hit in the head with a rock in a sock or an unknown weapon in the downtown New Haven Connecticut area Chapel St. Temple St. College St or Elm St. from July 7th 2017 to July 14th 2017.”

b. “I am also requesting all police complaints of people who were hit in the head by an unknown object or rock in a sock from July 7th 2017 to July 14th 2017.”

9. It is found that, to the extent that the respondents maintain the records described in paragraph 8, above, such records are public records, within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

10. It is found that the respondents receive hundreds of 911 calls each day and also maintain copies of all complaints which are filed. At the hearing in this matter, the respondents did not claim an exemption from disclosure with respect to the records described in paragraph 8, above. Rather, the respondents contended that the complainant's request will necessitate research, which is not required under the FOI Act.

11. Public agencies such as the respondents are not required to conduct research in order to respond to a FOI request. See Wildin v. FOIC, 56 Conn. App. 683, 746 A.2d 175 (1999). In Wildin, the Appellate Court concluded that a records request involves research if the respondents must exercise discretion to determine whether the records sought fall within the request. *Id.* at 687. Merely having to look in many places in order to gather responsive records, however, does not constitute research. In Wildin, the complainant requested "all correspondence...to or from the Mayor...and to or from the Town Attorney...from January 1, 1996 to the present." *Id.* at 684-85. The Commission found that such records were located in at least fifty, and perhaps in over one hundred files, organized by subject matter, and concluded therefore that the respondents would need to conduct "research" in order to locate all such responsive records. *Id.* at 685. The trial court agreed, but the Appellate Court reversed, noting that the complainant had "specifically identified the records he sought, and there was no analysis required to search for the records." *Id.* at 686. According to the Court, "a record request that is simply burdensome does not make that request one requiring research." *Id.* at 687.

12. At the hearing in this matter, the respondents contended that in order to fully comply with the complainant's request, they would have to spend an inordinate amount of time listening to what would amount to thousands of recordings, would have to read through voluminous complaints, and would also likely have to review other records to determine if the recordings and complaints actually related to head injuries or a "rock in a sock".

13. The Commission agrees that the request is burdensome and probably unnecessarily so. For example, if the complainant were to narrow his request by date, time or specific incident, the respondents could much more quickly locate the requested records and provide them to him. However, such narrowing has not occurred as of yet.

14. Under the facts and circumstances of this case, it is concluded that the request described in paragraph 8, above, does not require research, only an extremely time-consuming and burdensome search.

15. It is further concluded that the respondents are not required to look beyond the four corners of a requested recording or complaint to determine if such record is responsive. For example, the respondents are not required to read through the case file to determine if a complaint regarding an assault actually related to a head wound, if such fact

is not clearly written on the face of the complaint. Similarly, under Wildin, the respondents are not required to exercise discretion, or to engage in analysis, to determine whether a record is responsive to the request. Rather, the respondents need only search the recordings and complaints to locate any records which mention the words “rock”, “sock” or “head.” It is found that any records which do not mention any such words are non-responsive, per se.

16. Based on the facts and circumstances of this case, it is concluded that the respondents violated §§1-200(5), 1-210(a) and 1-212(a), G.S.

17. The Commission is concerned about the scope of the request at issue, which, as described in paragraph 13, above, seems unduly broad. The Commission notes that of course the respondents must perform many vital law enforcement responsibilities, in addition to fulfilling their responsibilities under the FOI Act, which undoubtedly includes responding to multiple requesters other than the complainant. Prompt compliance with the complainant’s request must be measured against the totality of these other duties.

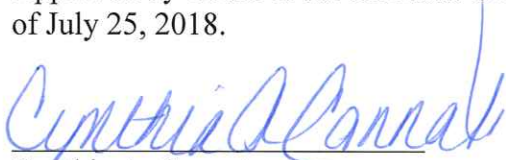
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint.

1. The respondents shall conduct a search within the parameters set forth in paragraph 15 of the findings, above, for records responsive to the request described in paragraph 8, of the findings, above, and shall provide the complainant with copies of any records located as a result of such search. If no records are located, the respondents shall so inform the complainant by letter.

2. The respondents may take up to one month to comply with each day’s worth of requested records.

3. The parties are urged to work on a modification of the request at issue. In so doing, the Commission believes that the complainant will receive any responsive records in a timelier manner, and the respondents will be relieved of performing a massive amount of work which might ultimately yield few or no records. If the parties avail themselves of this suggestion, the Commission’s ombudsman is available to assist.

Approved by Order of the Freedom of Information Commission at its regular meeting of July 25, 2018.



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:

WILLIAM MCKINNEY, #231828, New Haven Correctional Center, 245 Whalley Avenue, New Haven, Ct 06530

CHIEF, POLICE DEPARTMENT, CITY OF NEW HAVEN; AND POLICE DEPARTMENT, CITY OF NEW HAVEN, c/o Attorney Kathleen Foster, Corporation Counsel, City of New Haven, 165 Church Street, New Haven, CT 06510



Cynthia A. Cannata
Acting Clerk of the Commission