

Since 1975



# FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106  
Toll free (CT only): (866)374-3617 Tel: (860)566-5682 Fax: (860)566-6474 • www.state.ct.us/foi/ • email: foi@po.state.ct.us

Stafford Green,  
Complainant(s)  
against

Notice of Meeting

Docket #FIC 2016-0228

Chief, Police Department, City of New Haven; Police  
Department, City of New Haven; and City of New Haven,  
Respondent(s)

January 5, 2017

### Transmittal of Proposed Final Decision

In accordance with Section 4-179 of the Connecticut General Statutes, the Freedom of Information Commission hereby transmits to you the proposed finding and decision prepared by the hearing officer in the above-captioned matter.

This will notify you that the Commission will consider this matter for disposition at its meeting which will be held in the Freedom of Information Commission Hearing Room, 18-20 Trinity Street, 1st floor, Hartford, Connecticut, at **2 p.m. on Wednesday, January 25, 2017**. At that time and place you will be allowed to offer oral argument concerning this proposed finding and order. Oral argument shall be limited to ten (10) minutes. For good cause shown, however, the Commission may increase the period of time for argument. A request for additional time must be made in writing and should be filed with the Commission **ON OR BEFORE January 17, 2017**. Such request **MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, and (2) include a notation indicating such notice to all parties or their representatives.**

Although a brief or memorandum of law is not required, if you decide to submit such a document, an **original and fourteen (14) copies** must be filed **ON OR BEFORE January 17, 2017**. **PLEASE NOTE: Any correspondence, brief or memorandum directed to the Commissioners by any party or representative of any party MUST BE (1) copied to all parties, or if the parties are represented, to such representatives, (2) include a notation indicating such notice to all parties or their representatives and (3) be limited to argument. NO NEW EVIDENCE MAY BE SUBMITTED.**

If you have already filed a brief or memorandum with the hearing officer and wish to have that document distributed to each member of the Commission, it is requested that **fifteen (15) copies** be filed **ON OR BEFORE January 17, 2017**, and that **notice be given to all parties or if the parties are represented, to their representatives, that such previously filed document is being submitted to the Commissioners for review.**

By Order of the Freedom of  
Information Commission

W. Paradis

Acting Clerk of the Commission

Notice to: Stafford Green  
Attorney Kathleen Foster

FIC# 2016-0228/Trans/wrbp/NRP/TCB/2017-01-05

FREEDOM OF INFORMATION COMMISSION  
OF THE STATE OF CONNECTICUT

In The Matter of a Complaint by  
Stafford Green,

Report of Hearing Officer

Complainant

against

Docket #FIC 2016-0228

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

Respondents

December 28, 2016

The above-captioned matter was heard as a contested case on June 21, 2016, at which time the complainant and the respondents appeared, stipulated to certain facts and presented testimony, exhibits and argument on the complaint. The respondents submitted for an in camera inspection the 56 pages of records described in paragraph 8, below.

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 March 18, 2016, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by denying his request for the complete file of his application for a position as a police officer.
3. It is found that the complainant was an applicant for a position as an entry level police officer.
4. It is found that the complainant took the civil service examination, received a high rank, and was given an offer of employment conditional upon further examination.
5. It is found that the complainant was not successful on the further examination, and his name was removed from the eligibility list.
6. It is found that, in connection with the removal of his name, the complainant was given an opportunity to review his file and appeal.
7. However, the complainant was not initially given a copy of his file.

8. It is found that the complainant was later given a copy of his file, but that two sets of materials were withheld: (a) 46 pages of examination questions; and (b) ten pages from the State Offender Based Tracking System.

9. 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.

10. 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, (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.

11. 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.”

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

13. Section 1-210(b)(6), G.S., provides that disclosure is not required of “[t]est questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination....”

14. Section 54-142r, G.S., provides:

(a) Any data in the offender-based tracking system, as defined in section 54-142q, shall be available to the Commissioner of Administrative Services and the executive director of a division of or unit within the Judicial Department that oversees information technology, or to such persons’ designees, for the purpose of maintaining and administering said system.

(b) Any data in said system from an information system of a criminal justice agency, as defined in subsection (b) of section 54-142g, that is available to the public under the provisions of the Freedom of information Act, as defined in section 1-200, shall be obtained from the agency from which such data originated. The Secretary of the Office of Policy and Management shall provide to any person who submits a request for such data to the Criminal Justice information System governing Board, pursuant to said act, the name and address of the agency from which such data originated.

15. With respect to the 46 pages of test questions, it is found that these pages are permissibly exempt from disclosure pursuant to §1-210(b)(6), G.S., and that the respondents did not violate the FOI Act by withholding them.

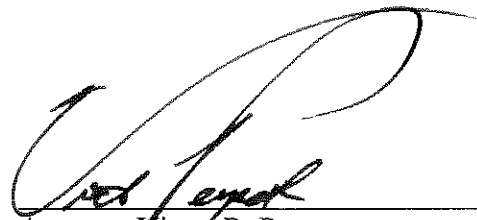
16. With respect to the ten pages from the State Offender Based Tracking System, it is concluded these §54-142r “otherwise provides,” within the meaning of §1-210(a), G.S., that these records must be obtained from the agency from which such data originated.

17. It is therefore concluded that the respondents did not violate the FOI Act by withholding the ten pages from the State Offender Based Tracking System.

18. With respect to the remainder of the records, copies of which were ultimately provided to the complainant, it is concluded that such copies were not provided “promptly” within the meaning of §1-210(a), G.S., and that the respondents violated the FOI Act by initially denying the complainant a copy of those records.

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 requirement of §1-210(a), G.S.
2. With respect to the 46 pages of test questions and the ten pages from the State Offender Based Tracking System, the complaint is dismissed.



Attorney Victor R. Perpetua  
as Hearing Officer