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FREEDOM OF INFORMATION



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Bobby Nealy
Complainant(s)
against

Notice of Meeting

Docket #FIC 2016-0692

Vernon Riddick, Chief, Police Department,
City of Waterbury; Police Department, City of
Waterbury; and City of Waterbury
Respondent(s)

July 21, 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, August 9, 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 July 28, 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 July 28, 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 July 28, 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

Wendy R.B. Paradis
Acting Clerk of the Commission

Notice to: Bobby Nealy
Attorney Gary S. Roosa
cc: Craig Washington

FIC# 2016-0692/ITRA/PSP//VDH/WRBP/2017-07-21

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Bobby Nealy,

Complainant

Docket # FIC 2016-0692

against

Vernon Riddick, Chief, Police
Department, City of Waterbury;
Police Department, City of
Waterbury; and City of Waterbury,

Respondents

June 30, 2017

The above-captioned matter was heard as a contested case on April 3, 2017, at which time the complainant and 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 by letter dated August 29, 2016, the complainant made a seven-part request to the respondents for copies of records pertaining to case number 14-002705, including warrants, witness statements, audiotapes, photographs, investigation reports, and plea deals, among other records.
3. It is found that by a form titled "Application for Freedom of Information Act," dated September 11, 2016, the complainant made a request to the respondents for copies of the following records:

[a] Investigation Report for Bobby Nealy's connection to 06/2013 major drug arrest of carrier with over 34,000 bags of heroin[;]

[b] Investigation Report for Bobby Nealy's connection to 2013 murder suspicion with white vehicle;

[c] Investigation Reports for drug purchases from Bobby Nealy (ALL)[;]

[d] Investigation Reports from all investigations of Bobby Nealy[;]

[e] Investigation Reports from incidents for Bobby Nealy's Private Social Club business OTF[; and]

[f] Investigation Report from 130 Highland Dr., Waterbury, CT where the Proctor family denied knowing Bobby Nealy.

4. By letter received and filed on September 28, 2016, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide him with copies of the records, described in paragraphs 2 and 3, above.¹ The complainant also requested the imposition of civil penalties.

5. Section 1-200(5), G.S., defines "public records or files" as:

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 . . . (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."

¹ In his letter of complaint, the complainant referenced records requests sent on August 25, 2016, and September 15, 2016, respectively. However, in the affidavit accompanying his complaint, the complainant attests that the records requests at issue were sent on August 29, 2016, and September 11, 2016. At the hearing, the complainant and respondents provided testimony concerning requests dated August 29, 2016, and September 11, 2016.

8. 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.

9. With respect to the complainant's August 29th request, described in paragraph 2, above, it is found that the respondents first learned of such request when they received the docketing letters, which included a copy of the August 29th request, from the Commission. It is also found that case number 14-002705, to which reference was made in the August 29th request, is not a number assigned by the Waterbury Police Department to its case files.


10. With respect to the complainant's September 11th request, described in paragraph 3, above, it is found that Sergeant Monahan, the officer in charge of the respondents' records division, acknowledged such request on or about September 30, 2016, two days after the complaint was filed in this matter.

11. It is also found that Sergeant Monahan was unable to locate any records in the respondents' possession pertaining to the complainant that were responsive to his requests. It is further found that Sergeant Monahan, in an attempt to locate any records pertaining to the complainant, checked the Judicial Branch website for information and discovered that the complainant had been arrested by the Meriden Police Department on July 22, 2014. Sergeant Monahan subsequently contacted the records clerk for the Meriden Police Department who informed him that the records pertaining to the complainant's arrest were in the possession of the Meriden Police Department.

12. It is found that the respondents do not possess any records responsive to the complainant's August 29th and September 11th requests, described in paragraphs 2 and 3, above. It is therefore concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

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.


Paula S. Pearlman
as Hearing Officer