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FREEDOM OF INFORMATION



Connecticut Freedom of Information Commission • 18-20 Trinity Street, Suite 100 • Hartford, CT 06106
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Maleek Jones
Complainant(s)
against

Notice of Meeting

Docket #FIC 2017-0053

Chief, Police Department, City of New Haven; Police Department, City of New Haven; City of New Haven; Commissioner, State of Connecticut, Department of Correction; and State of Connecticut, Department of Correction

Respondent(s)

October 24, 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 **2:00 p.m. on Wednesday, November 15, 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 November 3, 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 November 3, 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 November 3, 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: Maleek Jones
Attorney Kathleen Foster
Craig Washington

FIC# 2017-0053/ITRA/KKR/VDH/WRBP/2017-10-24

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

Report of Hearing Officer

Maleek Jones,

Complainant

against

Docket #FIC 2017-0053

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

Respondents

September 13, 2017

The above-captioned matter was heard as a contested case on August 16, 2017, 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.).

Upon receipt of the complaint against the New Haven respondents in this matter, the Commission added the Commissioner of the State of Connecticut Department of Correction, and the Department of Correction, as respondents. However, by letter dated August 15, 2017, the complainant withdrew the complaint against the Department of Correction respondents only. The case caption has been amended accordingly.

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 January 3, 2017, the complainant requested from the respondents any record of receipt of the fingerprints "lifted from vehicle," in case CR 6362355 (#105669); as well as "production of all information pertaining to the complaint referenced above, all material, documentation, video, etc., all physical evidence relevant to this case."
3. It is found that, by letter dated January 26, 2017, the respondents acknowledged the request, described in paragraph 2, above, and informed the complainant that they were unable to identify what records he was seeking based on the information he provided in his request. The respondents therefore asked the complainant to clarify his request.

4. It is found that, in response to the respondents' January 26th letter, described in paragraph 3, above, the complainant sent them two pages of a police incident report, in which he had highlighted two lines on each page, along with the following notation: "Please find enclosed the highlighted information you requested. It is the original documentation of the NHPD. Page 3 is the exact highlighted info I am interested in!"

5. It is found that, by letter dated March 17, 2017, the respondents informed the complainant that they had received his updated FOI request, and that they were researching and gathering the highlighted specific information contained in his correspondence (see paragraph 4, above). It is found that the respondents interpreted the complainant's correspondence as a narrowing of his request to the information he highlighted in the two pages of the police report, i.e., any record of receipt of the fingerprints.

6. It is found that, by letter dated April 18, 2017, the respondents informed the complainant that "no fingerprint and latent prints can be located." The complainant testified at the hearing that he did not receive this letter.

7. By letter filed with the Commission on April 24, 2017, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to comply with the request, described in paragraph 2, above.

8. 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 1-218, whether such data or information be handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method.

9. 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...(3) receive a copy of such records in accordance with section 1-212.

10. It is found that the records the complainant requested pertain to a homicide that occurred more than 20 years ago, which homicide was investigated by the New Haven Police Department. It is found that, at the time of the crime, the NHPD did not have a computer database in which to organize or store records, and that all their records were maintained in paper form.

11. It is found that the respondents conducted a thorough search for any record of the receipt of fingerprints in case CR 6362355 (#105669), and that no such record was located.


12. At the hearing in this matter, the complainant testified that he did not intend to limit his request to only the record of the receipt of fingerprints, and that, despite his correspondence to the respondents that the highlighted portion was the "exact info" he was interested in, he was seeking all records pertaining to his criminal case.

13. It is found, however, that the respondents' interpretation of the complainants' clarification of his request was reasonable.

14. Based upon the foregoing, it is concluded that the respondents did not violate the FOI Act, as alleged by the complainant.

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.


Kathleen K. Ross
As Hearing Officer