

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Ethan Book,

Complainant

against

Docket # FIC 2021-0493

City Sheriff, City of Bridgeport; and City of
Bridgeport,

Respondents

August 10, 2022

The above-captioned matter was heard as a contested case on February 2, 2022, at which time the complainant and the respondents appeared, and presented testimony, exhibits and argument on the complaint. For purposes of the hearing, the above-captioned matter was consolidated with Docket #FIC 2021-0522; Ethan Book v. Sheriff, City of Bridgeport; and City of Bridgeport; and Docket #FIC 2021-0523; Ethan Book v. Sheriff, City of Bridgeport; and City of Bridgeport. Due to the COVID-19 pandemic and the state's response to it, the hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session).

After the hearing, the complainant submitted several documents to the Commission and requested that the hearing officer admit them as an after-filed exhibit. The respondents did not object to such request. Those documents have been admitted into evidence and marked as Complainant's Exhibit B (after-filed): Returns of Service.

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 14, 2021, the complainant requested from the respondents a copy of the following records regarding Michael Garrett, a sheriff employed by the City of Bridgeport:
 - (a) Confirmation of you having current bond coverage for your official position;
 - (b) Documentation which reflects the person who administered to you the oath of office for your current term;

- (c) Documentation which reflects the total amount that you received for your official actions of serving any and all types of legal processes since December 1, 2019; and
- (d) Documentation which reflects the names/identities of those persons and/or entities for which you serviced legal papers since December 1, 2019.

3. It is found that the respondents received the request on or about August 18, 2021. A few days later, they responded to the complainant by email, explaining that they planned to consult with their “legal advisors” about the proper course of action with regard to the complainant’s request.

4. By letter of complaint dated August 26, 2021, the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide him with the records, described in paragraph 2, above.

5. Section 1-200(5), G.S., provides:

“[p]ublic 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, videotaped, printed, photostated, photographed or recorded by any other method.

6. Section 1-210(a), G.S., provides in relevant part that:

[e]xcept 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.

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. It is found that the records described in paragraph 2, above, to the extent they exist, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. With regard to the complainant’s requests, set forth in paragraphs 2(a) and (b), above, it is found that the respondents do not maintain any responsive records.

10. With regard to the complainant's request, set forth in paragraph 2(c), above, it is found that the respondents maintain the Schedule Cs of Garrett's 1040 tax returns and that such records are responsive to that request. It is further found that such returns are the only responsive records that the respondents maintain. However, during the hearing, the respondents contended that such records were exempt from disclosure pursuant to §§1-210(b)(10) and 12-15, G.S.

11. Section 1-210(b)(10), G.S., states, in relevant part, that nothing in the FOI Act shall be construed to require the disclosure of "[r]ecords, tax returns, reports and statements exempted by federal law or the general statutes"

12. Section 12-15(a), G.S., states that "[n]o officer or employee, including any former officer or former employee, of the state or of any other person who has or had access to returns or return information in accordance with subdivision (12) of subsection (b) of this section shall disclose or inspect any return or return information, except as provided in this section."¹

13. Section 12-15(h)(2), G.S., provides, in relevant part, that:

"[r]eturn information" means a taxpayer's identity, the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax collected or withheld, tax underreportings, tax overreportings, or tax payments, whether the taxpayer's return was, is being, or will be examined or subjected to other investigation or processing, or any other data received by, recorded by, prepared by, furnished to, or collected by the commissioner with respect to a return or with respect to the determination of the existence, or possible existence, of liability of any person for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense. "Return information" does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. . . .

14. It is found that the records requested and described in paragraph 2(c), above, constitute "return information," as defined by §12-15(h)(2), G.S., and are therefore exempt from disclosure.

15. It is thus concluded that the respondents did not violate §§1-210(a) and 1-212(a), G.S., by failing to disclose them.

16. With regard to the complainant's request, set forth in paragraph 2(d), above, it is found that, at the time of the complainant's request, the respondents did not maintain records responsive to such request. The complainant argued that, to the extent that the respondents

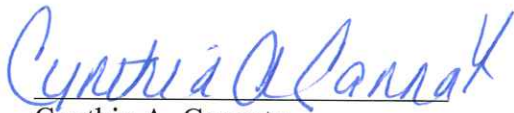
¹Section 12-15(b), G.S., sets forth the exceptions to the general prohibition of disclosure or inspection of any tax return or return information, none of which apply here.

improperly disposed of the records, the Commission should sanction them for doing so. The Commission takes administrative notice of §§7-109, 11-8 and 11-8a, G.S., which govern the retention of public records, and further notes that any such allegations are within the purview of the State Public Records Administrator.

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.
as Hearing Officer

Approved by Order of the Freedom of Information Commission at its regular meeting of August 10, 2022.



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:

ETHAN BOOK, 144 Coleman Street, Bridgeport, CT 06604

CITY SHERIFF, CITY OF BRIDGEPORT; AND CITY OF BRIDGEPORT, c/o Attorney Dina A. Scalo, Office of the City Attorney, 999 Broad Street, 2nd Floor, Bridgeport, CT 06604



Cynthia A. Cannata
Acting Clerk of the Commission