

STATE OF CONNECTICUT
FREEDOM OF INFORMATION COMMISSION

In the Matter of a Complaint by

FINAL DECISION

Jon Schoenhorn,

Complainant

against

Docket # FIC 2021-0509

Office of the City Attorney, City of
Bridgeport; and City of Bridgeport,

Respondents

August 10, 2022

The above-captioned matter was heard as a contested case on May 24, 2022, at which time the complainant and the respondents appeared, stipulated to certain facts, and presented testimony, exhibits and argument on the complaint. 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), as amended by §1 of Public Act No. 22-3.

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 two separate letters, each dated Tuesday, August 17, 2021, the complainant requested that the respondents provide him with a copy of the following records (among other records no longer at issue):
 - (a) Bridgeport Police Department written inventory vehicle tow policies which were in force from January 2021 through the date of the request; and
 - (b) [a] list of all unmarked Bridgeport Police Department vehicles identifying either license plate or other listing information that were equipped with MVAR or other dashboard camera recording devices during the month of June 2021.
3. It is found that, by letter dated Friday, August 20, 2021, the respondents acknowledged receipt of the complainant's requests.
4. By letter of complaint filed September 1, 2021, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to disclose the records responsive to his requests set forth 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, are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

9. It is found that, on the day before the hearing in this matter, the respondents provided responsive records to the complainant, and the complainant reviewed such records.

10. With respect to the request set forth in paragraph 2(a), above, the complainant testified at the hearing that the respondents did not provide him with a copy of a “standardized departmental procedure” referenced in a policy the respondents provided to him in response to his request. The complainant also testified that the respondents provided him with one record responsive to his request set forth in paragraph 2(b), above, but he believed there should be additional responsive records.

11. At the hearing, counsel for the respondents contended that all responsive records were provided and, to the extent any “standardized departmental procedure” is maintained, it is not responsive to the complainant’s request. However, it is found that the respondents presented no documentary or testimonial evidence regarding the nature and scope of the search they conducted for records responsive to the requests described in paragraph 2(a) and 2(b), above. It is therefore found that the respondents failed to prove that they conducted a thorough and diligent search for such records. In addition, it is found that because the respondents did not conduct a search for any “standardized departmental procedure,” and therefore did not review any such record to determine whether it is responsive to the request described in paragraph 2(a), above, the Commission cannot credit the respondents’ representation that any such record is not responsive.

12. Based upon the foregoing, it is found that the respondents failed to prove that they provided a copy of all responsive records to the complainant.

13. Accordingly, it is concluded that the respondents violated §§1-210(a) and 1-212(a), G.S., as alleged in the complaint.

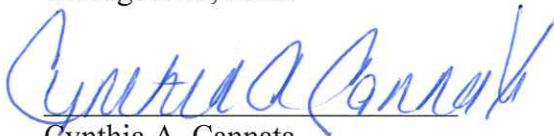
The following order by the Commission is hereby recommended on the basis of the record concerning the above-captioned complaint:

1. Forthwith, the respondents shall undertake a thorough and diligent search for the “standardized departmental procedure” referenced in paragraph 10, above. To the extent such record exists and is responsive to the request set forth in paragraph 2(a), above, a copy (including any attachment thereto) shall be provided to the complainant, free of charge, within 10 days of the date of the Notice of Final Decision in this matter. If no “standardized departmental procedure” exists, the respondents shall provide the complainant with an affidavit from an individual who can attest to the search undertaken for the “standardized departmental procedure” sought, and the basis for the conclusion that no responsive records exist, within 10 days of the date of the Notice of Final Decision in this matter.

2. Forthwith, the respondents shall undertake a thorough and diligent search for records responsive to the request, described in paragraph 2(b), above. If additional records are located, the respondents shall provide such records to the complainant within 10 days of the date of the Notice of Final Decision, free of charge. If no additional records are located, the respondents shall provide to the complainant an affidavit from an individual who can attest to the nature and scope of the search undertaken for records responsive to the request set forth in paragraph 2(b), above, and the basis for the conclusion that no additional responsive records exist, within 10 days of the Notice of Final Decision in this matter.

3. Henceforth, the respondents shall strictly comply with the disclosure provisions in §§1-210(a) and 1-212(a), G.S.

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:

JON SCHOENHORN, Jon L. Schoenhorn & Associates, LLC, 108 Oak Street, Hartford, CT 06106-1514

OFFICE OF THE CITY ATTORNEY, 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