

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Alyssa Peterson,

Complainant

against

Docket #FIC 2021-0354

Chief, Police Department,
City of Hartford; Police Department,
City of Hartford; and City of Hartford,

Respondents

June 22, 2022

The above-captioned matter was heard as a contested case on December 17, 2021, and May 16, 2022, at which times 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 December 17, 2021 hearing was conducted through the use of electronic equipment (remotely) pursuant to §149 of Public Act 21-2 (June Special Session). The May 16, 2022 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 22-3.

After consideration of the entire record, the following facts are found and conclusions of law are reached:

1. It is found that the respondents are public agencies within the meaning of §1-200(1), G.S.
2. It is found that by email dated June 3, 2021, and addressed to Lieutenant William Rea, Commander of the Hartford Police Department's Internal Affairs Division ("IAD"), the complainant made a request to the respondents for copies of:

[a] Photos of the shooting scene cited in Det. O'Brien's report for Case #18-10345, pg. 2, including fence and spent shell-casing;

[b] Full veterinary report including X-Ray described that showed shrapnel, see ACO [Animal Control Officer] DeGenova report #18-10345;

[c] The Unusual Occurrence Report [UOR] (see sample on Google) that would have been generated for the damaged property (i.e., dog);

[d] The Special Investigative Report “SIR” (see sample on Google) that would have been written up by senior officers, e.g., former Chief Rosado or Dep. Chief Foley;

[e] All notices, documents, reports or presentations made to the Firearms Discharge Review Board;

[f] In the absence of these items, any document showing why the Cintron decree was not followed;

[g] The signed photo of Ivan Maldonado obtained 4 days *after* the dog-shooting and *after* two former police chiefs (Rosado and Foley) had given Rep. Gonzale[z] personal assurances of no further suspicion or investigation;

[h] Documents mentioned in the missing report #18-10321 that were provided to HPD [Hartford Police Department] by Millie Lopez-Cook of the Hispanic Health Council, i.e., internal business reports, a drawing attributed to Ivan, any other documents given to HPD by this organization;

[i] The complete email received by former Chief Rosado from Councilman Sanchez, including header with incoming time and who it had been copied to, as well as any email response(s) sent back to Sanchez. (Emphasis in original) (“June 3rd request”).

3. By email received July 2, 2021, the complainant appealed to the Commission, alleging that the respondents violated the Freedom of Information (“FOI”) Act by failing to provide her with copies of the records described in paragraph 2, above.

4. At the time of the request, §1-200(5), G.S., provided:

‘[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, printed, photostated, photographed or recorded by any other method.¹

¹ Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of “[p]ublic records or files” to also include data or information that is “videotaped”.

5. 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.

6. 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.”

7. It is found that the requested records, to the extent that they exist and are maintained by the respondents, are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S.

8. The Commission notes that it sent letters to the parties on September 13, 2021, informing them of the complaint in this matter, and that the letters sent to the respondents included copies of the complaint and the June 3rd request.

9. It is found that on September 20, 2021, Sergeant Omayra Martinez-Baidy, a Supervisor in the respondents’ Civil Litigation/Freedom of Information Unit, received from the Commission a copy of the complaint and the June 3rd request. It is found that on that same day, Sergeant Martinez-Baidy reached out to Lieutenant Rea who confirmed that he had received the June 3rd request. It is found that Sergeant Martinez-Baidy requested that Lieutenant Rea search for any records responsive to the June 3rd request.

10. It is found that by email dated September 23, 2021, Lieutenant Rea provided Sergeant Martinez-Baidy with the following responses:

- [a] Photos are provided on a disk in the packet.
- [b] IAD does not have the vet report or X-Rays. The only report regarding this is ACO DeGenova’s report.
- [c] The UOR is provided in the packet.
- [d] A copy of the SIR is provided in the packet.
- [e] A copy of General Order 1-22 *Firearms Discharge Board of Inquiry* is included in the packet. According to Section I.A., this shooting does not fall under the purview of the FDBI because it did not endanger a person. Also, according to past practice, the FDBI does not review shootings of animals.
- [f] IAD does not have this document.
- [g] IAD does not have this signed photo.
- [h] IAD does not have these items.
- [i] The email is included in the packet.

It is found that a packet of records was provided to Sergeant Martinez-Baidy sometime between September 23, 2021, and October 4, 2021.

11. It is found that by email dated October 4, 2021, Sergeant Martinez-Baidy provided the complainant with copies of the following records in response to the June 3rd request: photographs, an email, Firearms Discharge Board of Inquiry General Order 1-22, and an Unusual Occurrence Report and Special Investigative Report pertaining to an April 2018 incident. It is also found that Sergeant Martinez-Baidy informed the complainant that “the whereabouts and existence of” certain records (i.e., signed photo of Ivan Maldonado, records provided by the Hispanic Health Council to the HPD) are part of an ongoing Internal Affairs Investigation, and that the respondents did not have any other responsive records. In addition, it is found that Sergeant Martinez-Baidy advised the complainant that the respondents’ FOI Unit handles all records requests made to the HPD and requested that the complainant direct future records requests to the respondents’ FOI Unit as the complainant has done with previous records requests to the respondents.

12. At the May 16, 2022 hearing, the complainant narrowed the issues with respect to her complaint. The complainant contended that the respondents failed to provide her with copies of the requested X-rays, and that they unreasonably delayed providing the complainant with a response to the June 3rd request. In addition, the complainant contended that although she had been provided with copies of the UOR and SIR as described in paragraph 11, above, such reports were generated in 2021. The complainant argued that such reports should have been generated at the time of the April 2018 incident.

13. With respect to the requested UOR and the SIR, it is found that whether the respondents should have generated such reports at the time of the April 2018 incident is not an issue within the Commission’s purview. Accordingly, it is concluded that the complainant has not alleged a violation of the FOI Act.

14. With respect to the requested X-rays, it is found that ACO DeGenova’s report #18-10345, described in paragraphs 2[b] and 10[b], above, stated that on April 16, 2018, ACO DeGenova transported a dog to a veterinary center in Windsor, CT, for treatment, at which time X-rays were taken. It is found that, in addition to reaching out to Lieutenant Rea, Sergeant Martinez-Baidy contacted the ACO Supervisor regarding the requested X-rays. It is found that the ACO did not have any responsive X-rays and that it is not standard procedure to request copies of veterinary reports and X-rays.

15. It is found that the respondents do not maintain copies of the requested X-rays.

16. It is found that the respondents provided the complainant with all records responsive to the June 3rd request that existed and were located at the time of such request. Accordingly, it is concluded that the respondents did not violate the disclosure provisions of §1-210(a), G.S.

17. With respect to the complainant’s claim that the respondents’ response was not prompt, the Commission has previously opined that the meaning of the word “promptly” is a particularly fact-based question. In Advisory Opinion #51, In the Matter of a Request for

Declaratory Ruling, Third Taxing District of the City of Norwalk, Applicant (Notice of Final Decision dated January 11, 1982), the Commission advised that the word “promptly,” as used in §1-210(a), G.S., means quickly and without undue delay, taking into consideration all of the factors presented by a particular request. The advisory opinion goes on to describe some of the factors that should be considered in weighing a request for records against other priorities: the volume of records requested; the time and personnel required to comply with a request; the time by which the person requesting records needs them; the time constraints under which the agency must complete its other work; the importance of the records to the requester, if ascertainable; and the importance to the public of completing the other agency business without the loss of the personnel time involved in complying with the request.

18. The complainant testified that the requested records related to an ongoing civilian complaint filed by the complainant and which was being overseen by Lieutenant Rea. The complainant also testified that she was instructed to contact Lieutenant Rea regarding anything related to such civilian complaint. In addition, the complainant testified that the requested records were “critical” and would be forwarded to the Cintron Negotiating Committee in Hartford, the Hartford State’s Attorney and the Office of the Inspector General, for review.

19. It is found that, although Sergeant Martinez-Baidy proceeded to search for and provide records responsive to the June 3rd request as soon as she became aware of such request, Lieutenant Rea knew of the June 3rd request for approximately three and a half months before any action was taken by the respondents on such request. It is found that the respondents’ response to the June 3rd request was not prompt.

20. Based on the facts and circumstances of this case, it is concluded that the respondents violated the promptness provisions §§1-210(a) and 1-212(a), G.S.

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 provisions of §§1-210(a) and 1-212(a), G.S.

Approved by Order of the Freedom of Information Commission at its regular meeting of June 22, 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:

ALYSSA PETERSON, 297 Grandview Terrace, Hartford, CT 06114

CHIEF, POLICE DEPARTMENT, CITY OF HARTFORD; POLICE DEPARTMENT, CITY OF HARTFORD; AND CITY OF HARTFORD, c/o Attorney Nathalie Feola-Guerrieri, Office of the Corporation Counsel, 550 Main Street, Hartford, CT 06103



Cynthia A. Cannata
Acting Clerk of the Commission