

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Christine Davis and
Advanced Investigations, Inc.,

Complainants

against

Docket #FIC 2021-0106

Chief, Police Department,
City of West Haven; Police
Department, City of West Haven;
and City of West Haven,

Respondents

March 23, 2022

The above-captioned matter was scheduled for hearing as a contested case on December 6, 2021, at which time the complainants and the respondents appeared and presented testimony, exhibits and argument on the complaint. For purposes of hearing, the above-captioned matter was consolidated with Docket #FIC 2021-0105; Christine Davis and Advanced Investigations, Inc. v. Chief, Police Department, City of West Haven; Police Department, City of West Haven; and City of West Haven; and Docket #FIC 2021-0107; Christine Davis and Advanced Investigations, Inc. v. Chief, Police Department, City of West Haven; Police Department, City of West Haven; and City of West Haven.

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).

On December 6, 2021, after the hearing in this matter, the respondents submitted, without objection, one after-filed exhibit, which has been marked as Respondents' Exhibit 1 (after-filed): Letter from Respondents to Complainants, dated November 4, 2020.

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 October 15, 2020, the complainants made a request to the respondents for copies of a police report and 911 calls associated with Police Report #20-54098. ("October 15th request").

3. It is found that by letter dated November 4, 2020, the respondents acknowledged the October 15th request.

4. By letter received February 26, 2021,¹ the complainants appealed to the Commission, alleging that the respondents violated the Freedom of Information Act by failing to promptly provide them with records responsive to the October 15th request.

5. At the time of the request, section 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.²

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 “any 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 requested records are public records within the meaning of §§1-200(5), 1-210(a) and 1-212(a), G.S., to the extent that such records exist and are maintained by the respondents.

9. It is found that prior to the hearing in this matter, the respondents provided the

¹ On March 25, 2020, the Governor issued Executive Order 7M (§2(1)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), requiring the filing of an appeal with the Freedom of Information Commission not later than thirty days after any alleged denial. Executive Order 7M (§2(1)) applied to any appeal filed prior to April 19, 2021. The Governor also issued Executive Order 7M (§2(2)), thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which required the Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M (§2(2)), which was extended by Executive Order 12B, applied to any appeal pending with the Commission on the issuance date and to any appeal filed prior to July 1, 2021. Consequently, the Commission has jurisdiction over the complaint.

² 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”.

complainants with a copy of the requested police report. At the hearing, the complainant testified that the only records at issue were the requested 911 calls.

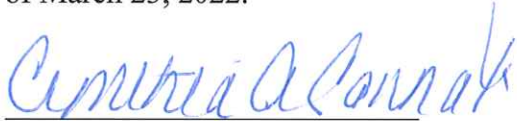
10. It is found, and the complainants do not dispute, that the requested 911 calls were erased pursuant to the respondents' thirty-day retention policy and no longer exist.

11. It is 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.

Approved by Order of the Freedom of Information Commission at its regular meeting of March 23, 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:

CHRISTINE DAVIS AND ADVANCED INVESTIGATIONS LLC, 3651 Main Street, Suite 201, Stratford, CT 06614

CHIEF, POLICE DEPARTMENT, CITY OF WEST HAVEN; POLICE DEPARTMENT, CITY OF WEST HAVEN; AND CITY OF WEST HAVEN, c/o Attorney Michael A. Leone, Lynch, Traub, Keefe & Errante, P.C., 52 Trumbull Street, New Haven, CT 06510



Cynthia A. Cannata
Acting Clerk of the Commission