

FREEDOM OF INFORMATION COMMISSION
OF THE STATE OF CONNECTICUT

In the Matter of a Complaint by

FINAL DECISION

Petrina Yoxall,

Complainant

against

Docket #FIC 2021-0393

Patricia King, Office of Corporation
Counsel, City of New Haven; and
Office of Corporation Counsel, City
of New Haven,

Respondents

May 11, 2022

The above-captioned matter was heard as a contested case on April 5, 2022, at which time the complainant and the respondents appeared and presented testimony, exhibits and argument on the complaint. The hearing was conducted remotely through the use of electronic equipment, pursuant to §149 of Public Act 21-2 (June Sp. Sess.).

After the hearing, pursuant to an order of the hearing officer, the respondents submitted an additional exhibit consisting of an email dated July 12, 2021. Such exhibit has been marked Respondents' Exhibit B (after-filed).

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 May 27, 2021, the complainant requested from the respondents a copy of:
 - (a) 911 communication shift reports for the past two years;
 - (b) any and all emails to/from Petrina Yoxall from certain named individuals regarding return to work or work status for the period January 2020 to present;
 - (c) all certified letters regarding return to work and/or work status for police department;

(d) list of 911 employees who worked from home from January 2018 to present;

(e) any and all MOU, MOA or settlement agreements for city employees who were on FMLA and Worker's Compensation from the period of 2018 to present ("May 27th request").

3. By email dated and filed June 19, 2021,¹ the complainant appealed to this Commission, alleging that the respondents violated the Freedom of Information ("FOI") Act by failing to provide the requested records.

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.²

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 concluded that the records requested by the complainant are public records within the meaning of §§1-200(5) and 1-210(a), G.S.

¹ On March 25, 2020, the Governor issued Executive Order 7M, thereby suspending the provisions of Conn. Gen. Stat. §1-206(b)(1), which requires the Freedom of Information Commission to hear and decide an appeal within one year after the filing of such appeal. Executive Order 7M is applicable to any appeal pending with the Commission on the issuance date and to any appeal filed on or after such date, through June 30, 2021. Consequently, the Commission retains jurisdiction over this matter.

² Section 147 of Public Act 21-2 (June Sp. Sess.) amended the definition of "public records or files" to also include data or information that is "videotaped".

8. It is found that neither Patricia King, Corporation Counsel for the City of New Haven, nor the Office of Corporation Counsel, maintain the requested records described in paragraphs 2(a), 2(c), 2(d), or 2(e), above. With regard to the request described in paragraph 2(b), above, it is found that the Office of Corporation Counsel maintains some of the responsive emails, and that such emails were provided to the complainant.

9. It is found that the remainder of the requested records likely are maintained at various departments within the City of New Haven, such as the Police Department, Human Resources Department, and Disability Services. It is found that each of these departments is itself a public agency. It is found that the Office of Corporation Counsel is distinct from any other public agency within the city of New Haven.

10. In Lash v. Freedom of Information Commission, 116 Conn. App. 171, 187 (2009), the Appellate Court ruled that a public agency is not required under the FOI Act to provide records maintained by another public agency to a requester. Accordingly, it is concluded that the respondents King and the Office of Corporation Counsel were only required to provide to the complainant the requested records they maintain, which, as found in paragraph 8, above, they did.

11. However, although not obligated to do so, the respondents contacted some of the other departments within the city that they believed might maintain the requested records, and asked those departments to conduct a search for such records. As of the date of the hearing in this matter, the respondents had obtained some of the responsive records from other departments and provided those records to the complainant. Counsel for the respondents pledged to continue to try to obtain additional responsive records from other departments and to provide them to the complainant.

12. Based upon the foregoing 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 dismissed.

Approved by Order of the Freedom of Information Commission at its regular meeting of May 11, 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:

PETRINA YOXALL, 146 Stuyvesant Avenue, New Haven, CT 06512

PATRICIA KING, OFFICE OF CORPORATION COUNSEL, CITY OF NEW HAVEN; AND OFFICE OF CORPORATION COUNSEL, CITY OF NEW HAVEN, c/o Attorney Catherine E. LaMarr, Office of the Corporation Counsel, City Hall, 165 Church Street, 4th Floor, New Haven, CT 06510



Cynthia A. Cannata
Acting Clerk of the Commission